

KEY CONSIDERATIONS FOR CONTINUING EMPLOYER CONTRIBUTION FOR FULL-TIME AND PART-TIME EMPLOYEES WHO ARE WORKING A REDUCED SCHEDULE

Background

Recently, DOER has fielded several inquiries from state agencies regarding the length of time that the agency may continue to pay the full employer contribution to insurance for a full-time employee who is working a reduced schedule due to his/her health condition. The reduced schedule has them working less hours than what is required to maintain a full employer contribution (i.e., less than 75%). The employees have exhausted their FMLA leave.

For example, one agency had a full-time unlimited AFSCME employee who, due to temporary medical restrictions, is able to work only 4-5 hours per day. The agency questioned whether this employee should continue to receive the full employer contribution to insurance.

The situation could also arise where a part-time employee, receiving a partial contribution, reduces his/her hours to the extent that the employee is no longer eligible for an employer contribution.

For example, a part-time employee normally working 25 hours per week reduces their schedule to 15 hours per week, due to medical restrictions.

Relevant Contract Language

The Insurance Article pertaining to eligibility for the employer contribution provides:

The following employees covered by this Agreement receive the full Employer Contribution:

1. Employees who are scheduled to work at least forty (40) hours weekly for a period of nine (9) months or more in any twelve (12) consecutive months.
2. Employees who are scheduled to work at least sixty (60) hours per pay period for twelve (12) consecutive months, but excluding part-time or seasonal employees serving less than a seventy-five (75) percent basis.
3. Part-time unlimited employees anticipated to work at least sixty (60) hours per pay period in insurance eligible positions for three (3) months or who have worked at least sixty (6) hours per pay period in insurance eligible positions for three (3) months and who are anticipated to continue to work at that level in insurance eligible positions.

(See Article 19, Section 3A of AFSCME Agreement)

The Partial Employer Contribution language provides:

Employees who hold part-time, unlimited appointments and who work at least fifty (50) percent of the time but less than seventy-five (75) percent of the time.

(See Article 19, Section 3B)

It also provides:

An employee who receives a full or partial Employer Contribution maintains that eligibility as long as the employee meets the Employer Contribution eligibility requirements, and appears on a State payroll for at least one (1) full working day during each pay period.

(See Article 19, Section 3D1 of AFSCME Agreement)

Guidelines

As you can see, eligibility for the full employer contribution is tied to “scheduled” hours, whereas eligibility for the partial contribution is dependent on hours “worked.”

Full employer contribution employees:

After consulting with the Employee Insurance Division and the HRDP, DOER advises agencies to use the following guidelines to determine whether it should continue the full contribution for full-time and part-time employees (at least 75%) working reduced schedules that do not meet the above contract requirements.

- If the employee is using FMLA-qualifying leave, the employee is entitled to the full employer contribution during this time.
- If the employee is working reduced hours due to an active Workers Compensation claim, the employee is entitled to the full employer contribution. Any changes in employment condition or insurance contribution must be coordinated between the agency and the State Worker’s Compensation Placement Coordinator.
- If the employee is working a reduced schedule but is using paid leave for the other hours (e.g. sick leave; vacation leave), the employee is entitled to the full employer contribution during this time.
- If the employee is working a reduced schedule and is using unpaid leave for the other hours, we advise you to use the following informal process:
 - Within the first 30 days, the supervisor should meet with the employee and attempt to determine the length of time that the reduced schedule is to continue, and begin planning how the employee will be transitioning to their original work schedule (work-hardening plan). The supervisor should advise human resources of the results of this meeting.
 - Over the next 60 days, the supervisor and human resources should monitor the employee’s status and work hours.
 - At the end of three (3) months if the employee is continuing to work a reduced schedule such that they are working less hours than required to receive a full employer contribution, the supervisor should again meet with the employee to determine whether and when there is an expectation of returning to work their original schedule.
 - If at the end of three months, the employee continues to work at the reduced schedule and there is no expectation that the employee will be returning to their original work schedule in the short-term future, provide the employee with a 3-month notice and a list of options to the employee (e.g., transfer to a part-time position that will allow a reduced schedule; medical leave; disability retirement). You should also advise the employee that at the end of the three (3) months, the

agency will discontinue the full employer contribution if the employee is not working their original schedule, and the employee will need to select an option.

- In the interim, monitor the situation, and if a transfer to a part-time position is possible, work with the appropriate exclusive representative to get a waiver of posting/bidding provisions if necessary.
- If during or at the end of this six-month period, the employee has returned to their original work schedule that made them eligible for a full employer contribution, maintain the full employer contribution.

Partial employer contribution employees (at least 50% and less than 75%):

After consulting with the Employee Insurance Division and the HRDP, DOER advises agencies to use the following guidelines to determine whether it should continue the partial contribution for part-time employees working reduced schedules that do not meet the above contract requirements for a partial contribution

- If the employee is using FMLA-qualifying leave, the employee is entitled to the employer contribution during this time.
- If the employee is working reduced hours due to an active Workers Compensation claim, the employee is entitled to the employer contribution. Any changes in employment condition or insurance contribution must be coordinated between the agency and the State Worker's Compensation Placement Coordinator.
- If the employee is working a reduced schedule but is using paid leave for the other hours (e.g., sick leave; vacation leave), the employee is entitled to the employer contribution during this time.
- If the employee's reduced schedule is less than 50% time for three months following return from leave or after commencing the reduced schedule, and the reduced schedule is not anticipated to exceed 50% time, the employee's insurance eligibility status shall be changed to the appropriate level the following pay period. At the point when the employee works 50% time or more, the employee will be eligible for the appropriate employer contribution.

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