

News

Christine Keller Speaks With SHRM on What Employers Converting Furloughs Into Permanent Layoffs Must Do

EVENT START

November 10, 2020 12:00:00 PM

EVENT END

November 10, 2020 12:45:00 PM

ATTORNEYS & PROFESSIONALS

Christine Keller

ckeller@groom.com

202-861-9371

PUBLISHED

10/30/2020

SOURCE

Society for Human Resource Management (SHRM)

SERVICES

Christine Keller was quoted in a recent Society for Human Resource Management (“SHRM”) article titled, “Be Sure to Change Furloughs into Layoffs Lawfully” where she discussed compliance requirements employers need to be aware of when having to layoff furloughed employees.

During the pandemic, many large employers furloughed employees but continued to make health coverage available under the same plan at the same employee rate, said Keller. If an employer did this, a COBRA-qualifying event did not occur at the time of the furlough, even though there was a reduction of hours, because there was no loss of coverage, she noted.

“Note that an active employee generally does pay for coverage pretax and a furloughed employee would have to pay for coverage after-tax,” Keller said. “Although case law is a bit mixed on this point, there is support for the view that—if all other terms and conditions remain the same—changing from pretax to after-tax payments is not enough of a change to equal a loss of coverage under the COBRA regulations.”

COBRA rights do not necessarily arise when an employer switches from a furlough to a permanent layoff, unless the employer has maintained health coverage at the active-employee rate during the furlough and does not wish to do so when the permanent layoff occurs, Keller noted. “If that is the case, a COBRA right would arise on the first day of the permanent layoff and extend for 18 months after that.”

To read the article, click [here](#).