

Full-Time to Part-Time: Educate Employees About Ramifications for Benefits and Compensation

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April 12, 2023

Employees who want to switch from full-time to part-time status should be fully apprised of the implications for benefits and compensation—not to discourage them from switching but to ensure they're making an informed decision.

Why Employees May Want to Make the Change

An employee may decide to request part-time work for a variety of reasons, most often for better time management, noted Marcia Wagner, an attorney with The Wagner Law Group in Boston.

A worker may want a less rigorous schedule. "Some employees may believe, whether or not correctly, that working on a part-time basis will be less stressful," she said.

For some, two part-time jobs may be a better fit or more lucrative than one full-time job. Or a worker may want to pursue additional education.

For others, the difficulties in caring for an aging parent and/or caring for children may not jibe with full-time employment, Wagner added.

"Some individuals may simply want to spend more time with family and friends or pursue some passion from their youth," she said.

"Perhaps they are feeling burned out and believe that a less rigorous schedule will re-energize them."

Illnesses or the side effects of health care treatments may cause an individual to work on a reduced schedule for an extended period.

Or, "sometimes more senior employees drawing Social Security retirement benefits are trying to stay under earnings limitations," said James Coleman, an attorney with Constangy, Brooks, Smith & Prophete in its Washington, D.C.-Northern Virginia office.

These are just some of the possible reasons. Employees may simply want a more flexible schedule, said Christine Keller, an attorney with Groom Law Group in Washington, D.C.

Benefits Implications

Employers typically make the determination of who is part-time and who is full-time, Keller said.

Many employers moved to a 30-or-more-hours-per-week designation of full-time to align with the Affordable Care Act's (www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/complyingwithandleveragingtheaffordablecareact.aspx) (ACA's) employer shared responsibility rules, applicable for group health plans, when the rules took effect in 2015, she noted. "But an employer can choose a different designation if they want," she said.

"The employer decides what the consequences of being part-time versus full-time mean within the organization," she added. For example, part-time employees may not be eligible for health coverage for themselves or their spouse and dependents, or for other benefits such as dental and vision. Part-time employees also may be subject to different rules regarding sick or vacation leave or other policies, Keller added.

In order to avoid triggering excise tax under Internal Revenue Code Section 4980H, employers using the "look-back method" for determining full-time employee status would need to maintain health benefits during the period known as a "stability period" for employees who worked a sufficient number of hours during the "measurement period" (www.shrm.org/resourcesandtools/hr-topics/benefits/pages/aca-measurement-periods.aspx) designated by the employer, Keller cautioned. If an employee loses health coverage because of a reduction of hours, this is a qualifying event under COBRA (www.shrm.org/resourcesandtools/tools-and-samples/need-to-know/pages/what-you-need-to-know-about-cobra-continuation-coverage.aspx), and the employer must let the employee continue health coverage for 18 months.

Prior to the Setting Every Community Up for Retirement Enhancement Act (SECURE) of 2019 (www.shrm.org/resourcesandtools/hr-topics/benefits/pages/secure-act-alters-401k-compliance-landscape.aspx), part-time employees could be excluded from a 401(k) plan, provided they did not reach 1,000 hours in any 12-month eligibility computation period, Keller said. Under the SECURE Act, long-term part-time employees must be eligible to contribute to a 401(k) plan once they 1) have reached age 21 and 2) worked at least 500 hours in three consecutive 12-month periods.

Starting with the 2021 plan year, 401(k) plan sponsors must track hours of service performed by part-time employees for eligibility and vesting purposes, Keller added. The 401(k) plan sponsors will be required to permit certain part-time employees to make elective deferrals in a 401(k) plan beginning in the 2024 plan year.

"Be sure to consider all benefits and adjust employee status in the applicable systems," Keller said. "Employers may not be able to make adjustments if they make a mistake."

For example, the rescission regulations under the ACA have an example indicating that when an employee's status changed from full-time to part-time but the employer did not cancel coverage at that time, the employer could not later retroactively cancel that coverage.

"Also consider employment laws such as the Fair Labor Standards Act and the Family and Medical Leave Act (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/fmla-eligibility-determination-missteps.aspx)," she said. "Be sure that the differences between full-time and part-time status are clearly described in relevant materials."

Compensation Considerations

Reclassification from exempt to nonexempt status is common when exempt workers seek part-time status.

Just being part-time does not mean that exempt status is automatically lost, noted Robert Boonin, an attorney with Dykema in Ann Arbor, Mich.

That said, "employers should create as much clarity and transparency as possible to the employee who is switching status, including any changes to classification, pay and work expectations," said Jeff Ruzal, an attorney with Epstein Becker Green in New York City.

"It is most critical that employers provide clear notice, training and regular reinforcement to employees who are reclassified from exempt to nonexempt, as such employees are not accustomed to reporting and recording work time," Ruzal said. "It is not uncommon for such reclassified employees to forget to clock in or out at the beginning or end of their workdays or when taking a meal period."

There can be a lot of behavior-shifting for employees who are used to not having to worry about tracking their time, even when working at night or on the weekend, said Brett Coburn, an attorney with Alston & Bird in Atlanta.

"When converting again from exempt to nonexempt in states such as California that have meal and rest break requirements for nonexempt employees, it is critical that employers train those employees on their policies and procedures for ensuring compliant meal and rest breaks," he said.

Follow federal and state law overtime requirements. State laws might require overtime based on the number of hours worked in a day, as is the case, for example, in California.

Boonin said it's also important to consider whether the work can be done on a part-time basis.

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