



SCMA COVID-19 Support Payment FAQ

Summary

On April 8, 2020, Governor Henry McMaster issued [Executive Order 2020-22](#) that allows companies to make voluntary "COVID-19 Support Payments" to furloughed employees that would not count as "wages" and allow these individuals to still be eligible for state and federal unemployment benefits (this was previously not allowed in South Carolina). This Executive Order is not mandatory but merely gives companies a tool to make their furloughed employees whole if they wish to pursue it.

What is the Intent?

- South Carolina is home to many companies that provide high-tech, high-paying manufacturing jobs. Many of these jobs pay wages in excess of what furloughed employees would normally receive, even when factoring in the enhanced \$600 weekly federal unemployment benefits that were put in place by the CARES Act. This Executive Order allows South Carolina companies to voluntarily supplement their employees' unemployment benefits in an effort to keep them whole during this crisis.

Are Companies Required to Participate?

- No, companies are not required to participate as this program is completely voluntary.

Are Companies Allowed to Pay Wages While the Employees Are Furloughed? Does that Not Violate Unemployment Laws?

- No, a COVID-19 Support Payment is **NOT** a wage. This payment demonstrates the company's appreciation for the employee's **past service** and there is no requirement that the employee perform any present or future work to receive the COVID-19 Support Payment. Furthermore, this is not an employee loan or paycheck advance program as the employee does not have to repay the payment to the company once he or she returns to work. This permits companies to maintain a ready workforce when conditions permit moving forward with normal operations.

I See Where the Company Has to Provide a Plan to SCDEW. Given the Delays and Workload SCDEW is Facing, Won't That Hold Up Payments to Employees?

- No, the company is not required to submit the [COVID-19 Payment Plan Application](#) prior to making payments to the employee (See EO 2020-21, Section 1(C)). However, the South Carolina Department of Employment & Workforce (SC DEW) is requesting that a company complete and email the COVID-19 Payment Plan Application to SCDEW prior payment to assist SCDEW with their filing requirements, but this is not required and there is no set deadline to submit the COVID-19 Payment Plan Application.

What Conditions Must Be Met for COVID-19 Support Payments to Not Be Considered Wages?

1. The payment must be made in response to furloughing the employee;
2. The payment must be for services rendered by the employee in the past;

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3. The employee (or the employee's estate) must not be obligated to repay the payment under any circumstances;
4. The payment must not obligate the employee to perform or not perform any act in connection with the individual's status as an employee;
5. The company must submit the COVID-19 Payment Plan Application to SC DEW electronically at legal@dew.sc.gov and identify the time period of the anticipated furlough is expected to last with the names of all furloughed employees (you can attach an Excel file sheet with employees names in your email to SC DEW to supplement the employees name in Section 10);
6. The company must file an employer-filed claim (individuals cannot file their own individual unemployment claim but will still have to do weekly certifications as normally required under the unemployment benefit process); and
7. The company should not report the COVID-19 Support Payments as "wages" and the furloughed employees should not report the COVID-19 Support Payments as "earnings" on their weekly certification (it could cause technical issues)

When Can A Company Make These COVID-19 Support Payments and Have the Payments Not Be Considered as Wages?

- SCDEW takes the position that the first week a company can make COVID-19 Support Payments and have them not be considered "wages" is the work week from Sunday, April 5th to Saturday, April 11th.

Can a "furloughed employee" still be eligible for state unemployment benefits and the \$600 weekly federal unemployment payments?

- Yes. A furloughed employee can be eligible for a maximum weekly cap of \$326 state unemployment benefits + the \$600 federal weekly unemployment payment + the COVID-19 Support Payment. Please remember as long as you are eligible for at least \$1 of state unemployment benefits you are eligible for the full \$600 federal weekly payment. SCDEW has indicated they will begin making the \$600 federal weekly payments by the week ending April 18, they will be retroactive so an individual will receive the payments in arrears.

If a Company Chooses to Make These Voluntary Payments, How Long Can They Make Them?

- A company can continue to make COVID-19 Payments for one week or a series of payments over several weeks for the duration of the State of Emergency. (See EO Section 1(B) and Section 2(C)).

Why Would a Company Make These Payments, Instead of Just Closing Up Shop?

- Many of our members made it known that their employees are their best resources and these companies wanted to do what they could to make the best of a difficult situation. This program allows our members to show their commitment to their employees while the company stays financially prepared for resuming normal business operations.

Couldn't a Company Just Take on The Full Responsibility of Financially Supporting Their Employees Instead of Allowing These Employees to Take Money from the Unemployment Insurance Trust Fund?

- These are unprecedented times which call for creative thought leadership and input from our constituents. This program is effectively a public/private partnership that allows **EVERYONE** to share in the responsibility of supporting furloughed South Carolinians. We believe enacting this

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program will keep our economy—which prior to this crisis had one of the lowest unemployment rates in the nation—in the best shape possible and put our State in the best position to be prepared to open for business when this crisis ends. Companies in South Carolina have made significant investments in this state, and this is another indicator of their commitment to South Carolina and our workforce.

Will This Bankrupt the Unemployment Insurance Trust Fund?

- While determining the Unemployment Insurance Trust Fund’s requirements is no doubt a difficult process and the law requires that SCDEW serves as a good steward of the fund, we believe that enacting this program is in the long-term best interest of the fund. This program allows these employees to remain in a financially similar position prior to this crisis, and, in doing so, will help keep our economy afloat during this difficult time. And, SCMA believes a good economy is in the long-term best interest of the unemployment insurance trust fund.

How should I complete the certification questions (13-17) on the COVID-19 Support Payment Plan Application?

- The certification questions on the Support Payment Plan Application (13-17) are worded in a way that they should all be answered YES in order to comply with the conditions of the order. If any of those questions are answered NO, then the payments do not meet the conditions of the order.

Who Can I Contact with Additional Questions?

- SCDEW has created a [webpage for employers](#) with some initial documents on COVID-19 Support Payments to include this [COVID-19 Support Payments Explainer](#). SCDEW will plan to update guidance, if necessary, but the agency hopes a company can just complete the COVID-19 Payment Plan Application and it should be a relatively painless process. However, please contact John Wall (wall@myscma.com) for assistance or to put you in touch with proper contact at SCDEW.