

CONTINUING

Coverage during  
— *Statutory* —  
Leaves & Lay Offs



# DISCLAIMER



This Webinar does **not constitute legal advice**. Every fact situation is different and can affect the legal analysis. **It's important to always consult with your legal counsel.**



# WHEN TO CONTINUE COVERAGE DURING LEAVES

TODAY'S FOCUS



*Business closures*



*Temporary Layoffs*

- What are they?
- When does coverage continue?



*Statutory Leaves*

- What are they?
- When does coverage continue?



# COVID-19 BUSINESS CLOSURES

- Provincial governments have ordered business closures for temporary periods and to varying degrees
- In some provinces, such as Ontario, the government imposed the closure of non-essential businesses





# COVID-19 BUSINESS CLOSURES

- In other provinces, such as BC, some non-essential businesses can stay open if they follow the provincial health officer's recommendations (e.g. customers can maintain physical distancing)
- Employees of non-essential businesses can still work remotely from home
- Essential services remain open



A modern office interior with people working at desks. The office has a clean, minimalist design with white walls, large windows, and exposed ceiling infrastructure. People are seated at desks, some working on laptops. The lighting is bright and even.

# WHAT DOES THIS MEAN FOR EMPLOYERS?



# WHAT DOES THIS MEAN FOR EMPLOYERS?

In Ontario, for example,  
you need to consider:

- Is my business essential?
- If not, can my employees work from home?

For non-essential businesses having employees who can't work remotely, your employees have a right to a declared emergency leave

COVID-19 has affected essential businesses too.

- Workplaces have changed –employees may be working at home
- Demands have changed - you may find that you need to make changes to your workforce. Such changes may include temporary layoffs.



# FUNDAMENTAL PRINCIPLES

- Generally, an employment contract consists of pay + benefits
- For employees to have coverage under a group benefits plan, they must be:
  - Actively working means ...
  - An employee is actively working if the employee is performing all the usual and customary duties of the employee's job with the employer for the scheduled number of hours for that day.



# THE EXCEPTIONS TO "ACTIVELY WORKING"

PLAN SPONSORS CAN CONTINUE COVERAGE FOR THESE ABSENCES:



Temporary  
Layoffs & Leaves  
of Absence



Statutory  
Leaves



Statutory  
Notice  
periods



Disability  
claims



Absences  
resulting from  
an illness



# CONTINUATION OF COVERAGE (COC)

The COC provision in our standard plan allows you to continue coverage:

- for a pre-determined period during which the employee is temporarily laid off or is granted a leave of absence for up to 3 months
- during a statutory leave set out in applicable legislation



# WHY THE TYPE OF LEAVE MATTERS



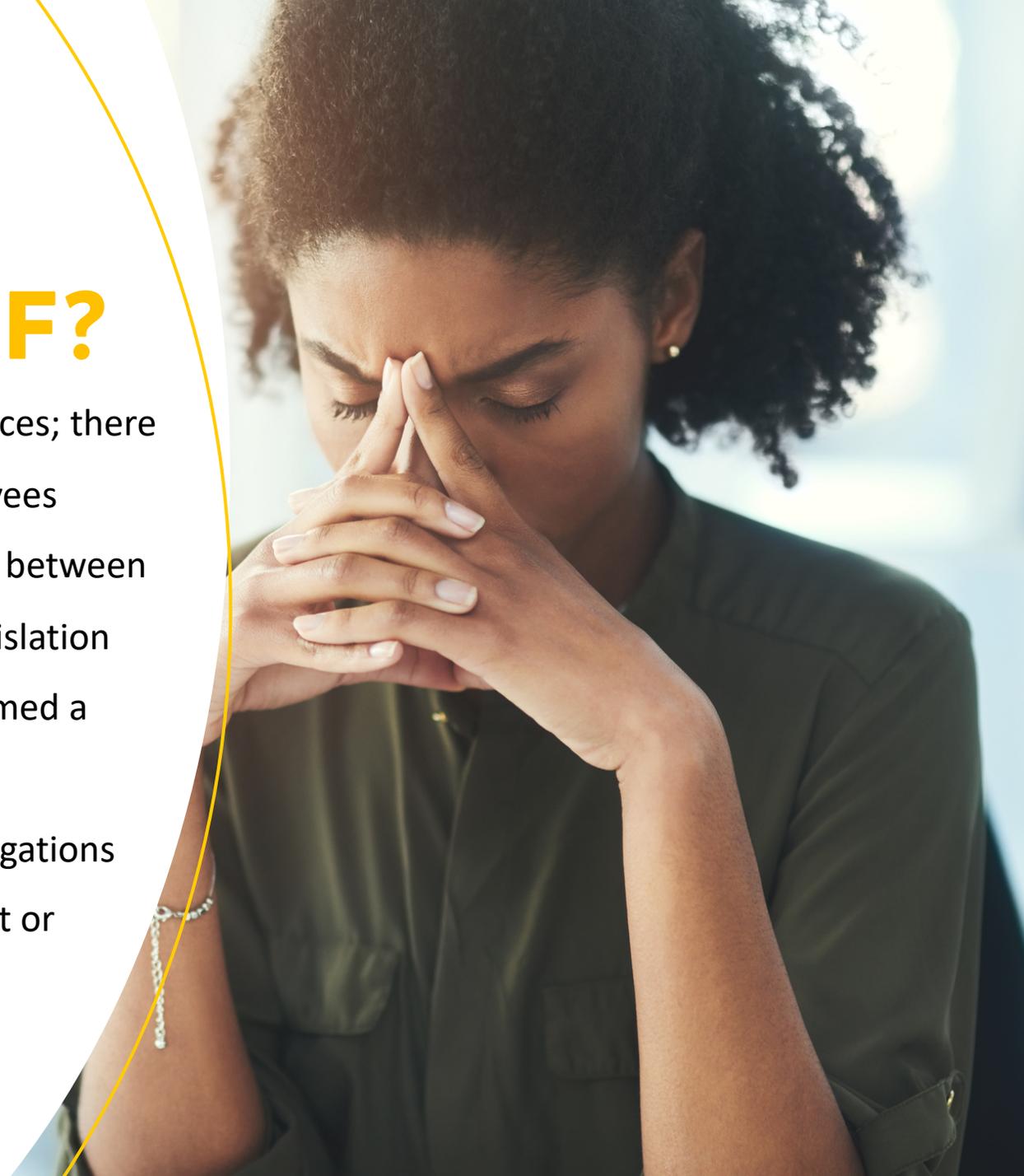
During a temporary layoff, minimum standards legislation does not require employers to continue coverage



During a statutory leave, in several jurisdictions, such legislation requires employers to continue coverage if the employee pays some or all premiums

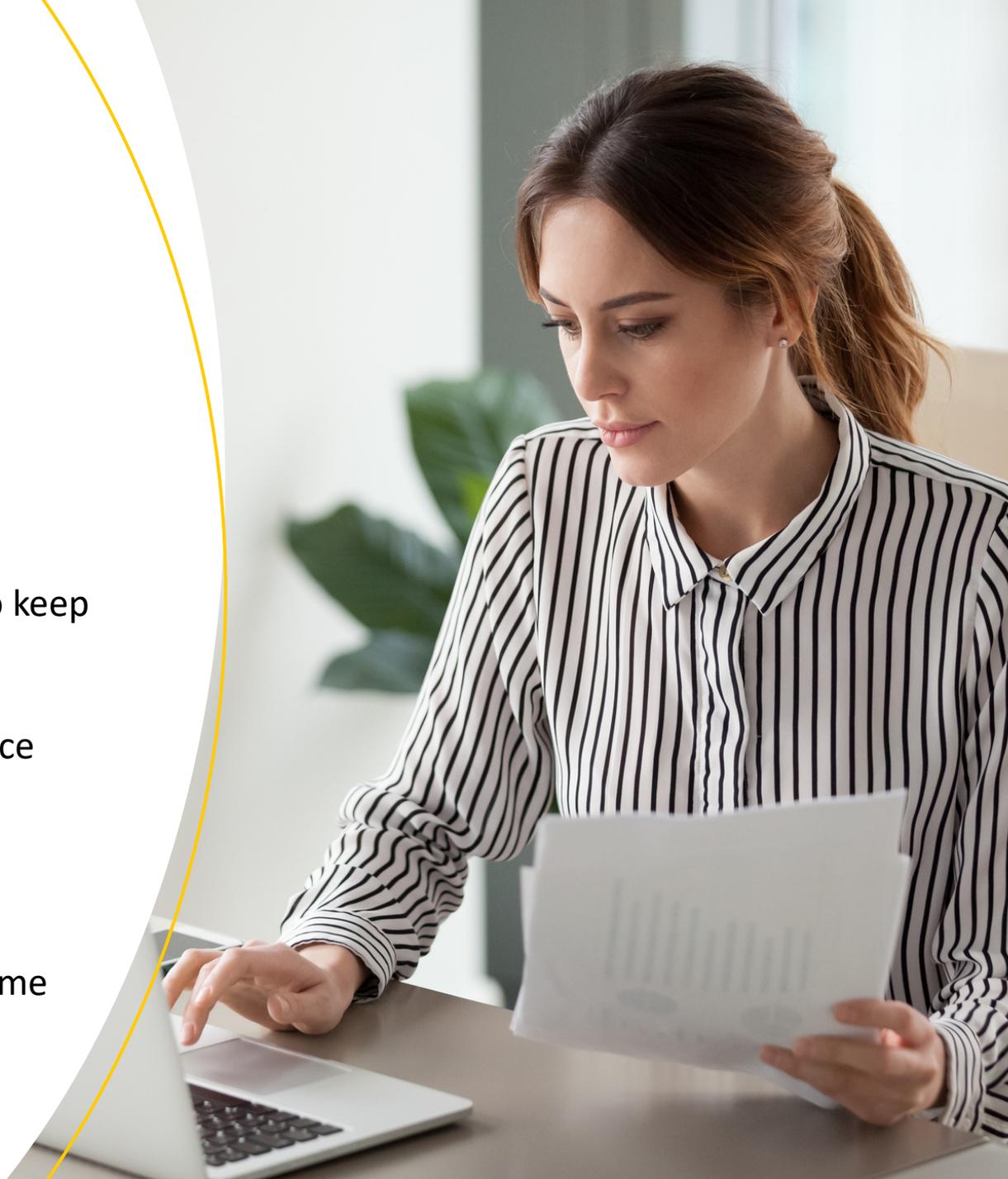
# WHAT IS A TEMPORARY LAYOFF?

- The employer temporarily stops the employee's services; there is an understanding that employers will recall employees
- The terms and parameters for temporary layoffs vary between the provincial and federal employment standards legislation
- Layoffs that exceed prescribed timelines may be deemed a termination
- You should consult with legal counsel about your obligations during a layoff and whether the employment contract or collective agreement allow layoffs, paid or unpaid.



# COVERAGE OPTIONS DURING A TEMPORARY LAYOFF

- To help you protect your employees, we encourage you to keep all coverage in place
- But if you are not required or able to keep coverage in place during a layoff, then we're giving you these options:
  - you can terminate all coverage
  - you can terminate disability coverage
- Remember to treat all employees in the same class the same



# WHAT HAPPENS WHEN GROUP COVERAGE TERMINATES

- If you do terminate your employees' coverage, then refer them to Sun Life so that they can convert their coverage
  - It's important to give your employees the choice to protect themselves
  - Conversions are time sensitive (e.g. 31 days for a life conversion; 60 days for a Choices product for life, critical illness and health coverage)
- When this pandemic is over and your employees return to work, then they should terminate their individual coverage
- We will reinstate their previous coverage
  - for Sun Advantage employees returning to work within 3 months of coverage ending
  - for all other employees returning to work within 6 months of coverage ending



# WHAT IS A **STATUTORY LEAVE**

1

Legislative leaves are often referred to as statutory leaves of absence

2

Leaves are prescribed in provincial and federal minimum standards legislation

3

The types of leaves and their duration vary between each province and federally

**EMPLOYEES' RIGHTS VARY TOO BUT GENERALLY AT THE END OF THE LEAVE:**

Employees retain their seniority

Employees return to their jobs or comparable positions

Employees have the right to the same benefits as they had prior to the leave



# COVERAGE OPTIONS FOR BOTH LAYOFFS AND STATUTORY LEAVES

- There are some options for employees that apply to statutory leaves that we will apply to temporary layoffs (when you decide to keep all coverage in place)
- If your employees can't pay all of their premiums, then employees can continue all coverage except:
  - Non-taxable disability coverage or
  - Optional coverages or
  - Both



# MORE OPTIONS

If you want to help your employees keep their coverage in place, then you could pay their share of premiums during the temporary layoff or statutory leave, which you may collect when they return to work

But you can't take this step for non-taxable disability benefits - employees must pay these premiums if they wish to maintain this coverage

We ask that employees, who decide to cancel some or all coverage, sign a waiver form (please follow this process for layoffs and statutory leaves)



# COVID-19 STATUTORY LEAVES

- The laws are changing quickly and in some provinces, they have been made retroactive
- There are emergency or COVID-19 related leaves in Ontario, BC, Alberta, Newfoundland, Saskatchewan and federally
- With some of these changes:
  - The leave may be indefinite or will continue for so long as the emergency
  - The leave is triggered if the employee is unable or unavailable to work
  - Employers can't ask for a medical note or certificate
- Alta's COVID-19 leave is for up to 14 days for employees in self-isolation as recommended by the Chief Medical Officer. But employees can still get 16 weeks of unpaid long term illness and injury leave



# OTHER EXAMPLES OF **STATUTORY LEAVES**

Personal Emergency/Family Caregiver/Family Medical/Bereavement

Critically Ill Child Care/Crime-Related Child Death or Disappearance

Reservist (military leave domestically or abroad)

Organ Donor (kidney, liver, lung, pancreas, or small bowel; for 13 weeks with possibility for another 13 weeks)

Domestic Violence leave

Pregnancy/Maternity/Parental



# THINGS TO REMEMBER

For temporary layoffs, you may have a choice about continuing coverage

For statutory leaves, in several jurisdictions, you must continue coverage

Employees have some options when you decide to continue coverage

When group coverage ends, employees may want to protect themselves with individual coverage

We're here to help you understand your benefit plan and coverage options and to help you protect your employees

Before making a decision, please consult legal counsel





Sun Life

**BE WELL – THANK YOU!**

