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eNEWSLETTER | JULY 2022

ROBUST JOBS REPORT CLOUDS ECONOMY OUTLOOK

A strong hiring report for June has assuaged fears that the U.S. economy might be on the cusp of a recession — and highlighted the resilience of the nation's job market. Inflation has soared to 40-year highs, consumers are increasingly gloomy, home sales and manufacturing are weakening and the economy might actually have shrunk for the past six months.

The contrasting picture suggests an economy at a crossroads. Strong hiring and wage growth could help stave off recession. Or, conversely, painful inflation and steadily higher borrowing rates engineered by the Federal Reserve could discourage consumer and business spending and weaken growth, eventually leading businesses to scale back hiring or even cut jobs.

The latest jobs data from the Labor Department shows that many businesses still want to keep hiring. Employers added 372,000 jobs in June, a surprisingly robust gain and in line with the pace of the previous two months. Economists had expected job growth to slow sharply last month given the broader signs of economic weakness. The unemployment rate remained 3.6% for a fourth straight month, matching a near-50-year low that was reached before the pandemic struck in early 2020.

Still, there's plenty of uncertainty clouding the economy's outlook. Jason Furman, who was a top economic adviser to President Barack Obama, said the gap between the healthy jobs data and the overall economic picture is the widest it's been in 70 years. In the first half this year, employers added 2.7 million jobs, even while other data suggests that the overall economy contracted during that time.

Numerous sectors of the economy posted strong job gains in June. Healthcare added 78,000, transportation/warehousing 36,000, professional services 74,000, and restaurants/hotels 67,000.

Yet some companies are announcing layoffs or have paused hiring. In particular, several large retailers, including Walmart and Amazon, have said they over-hired during the pandemic, with Walmart reducing its headcount by attrition. Retailers cut an average of 9,000 jobs a month in the April-June quarter, after having added 70,000 a month from January through March.

The nation has now recovered all the private sector jobs lost to the pandemic downturn, a little more than two years after it struck. By contrast, it took nearly five years to regain all the jobs lost in the 2008-2009 Great Recession.

OIL FIELD SERVICES SECTOR ADDS OVER 2K JOBS IN STATE

Texas continues to lead the nation in the number of oil field services employees as the sector adds jobs for the eighth month in a row.

In June, oil field services companies operating in Texas added 2,142 jobs for a total of 308,553, according to Energy Workforce and Technology Council. The OFS sector is led by Schlumberger, Halliburton and Baker Hughes, each with headquarters in Houston. Nationwide, the sector added about 5,000 jobs last month for a total of 633,198. The numbers from May were adjusted down by 603 to 628,190 total jobs nationally.

Global demand for oil and gas continues to climb as the economy recovers from the pandemic, outpacing supply. Sanctions on Russian oil in retaliation for Moscow's war on Ukraine have further exacerbated supply issues. That's caused U.S. officials to call on oil and gas producers to ramp up production in hopes of easing gasoline and utility prices. Investors are instead asking producers for increased returns and disciplined spending. Companies – faced also with challenges getting equipment due to supply chain snags – are sticking with already planned production increases.

Employment in the oil field services sector is likely boosted by an increasing rig count. In the most recent national rig count from Baker Hughes, oil and gas companies have added 273 rigs in the past year for a total of 752 operating in the U.S. last week. Companies in Texas are currently operating 361 rigs, a more than 60 percent jump from this time last year when only 224 rigs were operating in the state.

WHY MANY C-SUITE EXECS MAY JOIN THE TURNOVER TSUNAMI

It's not just front-line employees who are searching for flexibility and balance in their careers. C-suite executives are too, and new research suggests many could join the Great Resignation.

Nearly 70% of C-suite executives say they are seriously considering quitting for a job that better supports their wellbeing, compared to 57% of rank-and-file workers, according to a new report by Deloitte LLP in collaboration with research firm Workplace Intelligence.

The survey is the latest example of the depths of the turnover tsunami that has affected nearly every corner of the labor market since the start of the Covid-19 pandemic. It's a trend that's putting considerable pressure on businesses, which are raising salaries and increasing perks to defend their top talent.

The Deloitte survey found a variety of factors are driving the turnover threats for C-suite employees. About 73% of executives say their job doesn't allow them time off to disconnect, and 81% of C-suite executives say improving their well-being is more important than advancing their career right now. That compares to 68% of other employees who would rather prioritize their well-being than advance their careers, according to the report.

Meanwhile, about one-third of workers and executives "always" or "often" feel exhausted, stressed or overwhelmed. While 65% of employees rate their physical health as "excellent" or "good," about 89% of executives believe their workers are thriving. Just 56% of workers believe company leaders care about their wellbeing, but 91% of the C-suite see themselves as caring leaders. The survey did find about 95% of C-suite executives feel responsible for their employees' wellbeing, but 68% said they are not doing enough.

The report placed the blame for burned out employees and a shift toward work-life balance on the Covid-19 pandemic, which is forcing companies to better understand worker health. The focus on burnout and retention comes as workers have more bargaining power than ever in a tight labor market. The number of workers quitting their jobs in April stayed around 4.4 million, or around a 2.9% quit rate, hovering near all-time highs of 3% seen in 2021, according to data from the Bureau of Labor Statistics.

MIDYEAR RAISES OFFERED TO RETAIN WORKERS

It's a summer of pay increases at many big U.S. companies. To address inflation and to retain workers in what many executives say remains a tough labor market, some large employers are raising salaries or doling out special bonuses. Exxon Mobil gave U.S. employees a one-time payment in June equivalent to 3% of their salaries. PricewaterhouseCoopers says it will hand out raises in July to reflect its performance in its fiscal year that just ended. Microsoft told employees this spring it planned to nearly double its global budget for merit-based raises.

The moves, often planned months in advance, come at an unusual time for American businesses. Some executives have expressed concerns in recent weeks about a possible economic slowdown, and companies such as cryptocurrency exchange Coinbase Global Inc. and Netflix Inc. have recently laid off workers. Even so, many corporate leaders say business is strong and that higher pay is needed to reward employee performance, keep up with pay at rivals and to reflect that staffers are paying more for gasoline, groceries and other daily living expenses.

Last month, T. Rowe sent thousands of employees an email saying it would give about 85% of its workforce a 4% raise effective July 1st. T. Rowe employs more than 7,500 full-time staffers. Though the company's fiscal year doesn't end until December, executives made the decision to grant raises now after noticing an uptick in attrition, particularly among technology workers and some entry-level employees, and to account for inflation. The firm extended the raises to some new hires, meaning some employees got a pay bump after only weeks on the job. The 4% raise is in addition to annual, year-end salary adjustments that the company still plans to offer.

Overall, companies have on average increased base pay in the U.S. by 4.8% so far in 2022, and about a third of employers are considering or planning midyear raises, according to a survey of more than 300 large employers conducted in May by Pearl Meyer, a compensation advisory firm. For years, many companies kept pay increases around 3% annually, but bosses have felt pressure to change pay largely in an attempt to retain workers.

Exxon's 3% bonus in June came outside of the company's typical annual review cycle. Chief Executive Darren Woods said on a call with investors in late April that it was meant to help Exxon maintain competitiveness. The company also said it would triple the number of employees eligible for stock grants.

U.S. inflation accelerated to an 8.6% annual rate in May, its fastest pace in 41 years. The unemployment rate held steady at 3.6% in May—near its pre-pandemic lows—though the pace of hiring cooled from recent months.

Larger employers say they are monitoring pay data almost continuously now, too. At PwC, the firm no longer reviews salary data once a year, said Tim Ryan, the firm's U.S. chairman. Instead, PwC regularly looks at a number of data points, including salary expectations of new hires, using that information to react quickly and make compensation changes if needed. The firm raised pay 5% in January and offered additional raises this month.

COMPANIES WEIGH EXPANDING BENEFITS

The Supreme Court's decision overturning Roe v. Wade creates new challenges for employers and health insurers covering abortion services, especially whether and how to pay for travel to states where the procedure remains available.

Companies including Starbucks, Uber and Amazon have said they would reimburse travel for medical services including abortion. Grubhub and Dick's Sporting Goods said they would provide up to $4,000 to cover expenses traveling for services not available in their home state.

Thorny benefits issues pose a fresh challenge for many companies already struggling to navigate divisive social and political issues. Companies that choose to cover abortion—and any travel necessary to get one—have to balance alienating employees agitating for their employers to take a stand versus the risk of legal attacks or political blowback in states that have banned the procedure.

Some executives quickly issued public statements regarding the Supreme Court's decision. Yelp CEO Jeremy Stoppelman, who has been vocal on reproductive rights, said in a statement that business leaders needed to speak out against a wave of abortion bans expected to be triggered by the decision.

Facebook parent Meta Platforms Inc. Chief Operating Officer Sheryl Sandberg called the Supreme Court decision "a huge setback," and said in an Instagram post it jeopardizes the health of millions of women and girls. A Meta spokesman said the company plans to offer travel-expense reimbursements to access out-of-state healthcare and reproductive services and is "in the process of assessing how best to do so given the legal complexities involved."

Without health insurance to foot the bill, obtaining an abortion can be costly. In the U.S., the median self-pay price for a medication abortion in 2020 was $560, and the median cost of a first-trimester procedural abortion was $575, according to a study published in April in the journal Health Affairs. Many employers, especially the largest national companies, have been covering the procedures. Some 10% of American workers are enrolled in plans offered by employers that specifically excluded or tightly restricted it, according to a 2019 survey by the Kaiser Family Foundation.

Some 14% of large employers surveyed beginning in early June said they had a travel benefit in place, while another 25% said they were considering it, according to responses from nearly 300 employers to a survey being conducted by benefits consultant Mercer LLC. Employers with at least 20,000 workers were the most likely to provide a travel and lodging benefit for employees traveling to receive an abortion, the survey said.

Major insurers that administer health benefits for big employers, including UnitedHealthcare, Cigna Corp. and Aetna, had been confirming to self-insured clients they can likely facilitate travel offerings. Draft language that UnitedHealthcare recently sent to an employer for potential use in its plan document said the health plan would cover travel and lodging to a nearby state to get a covered healthcare service that isn't legally available where the employee lives.

Given the sensitivities, many employers have been parsing state and local laws that relate to abortion access, as well as administration of company health benefits that are self-funded versus covered under a fully-insured plan, insurance experts, CEOs and HR executives said.

Employers will likely be careful in how they communicate about their plans, and how they design any new travel benefit. They will have to navigate various wrinkles, including that a generous travel benefit might result in taxable income for patients. Also, to avoid estranging anyone, companies may structure the benefit to be broader than abortion, benefits experts said.

Companies that say they are committed to providing such benefits say the legal complexities of ensuring coverage are fraught. Yet covering abortion for employees who live in states where it is banned, and particularly facilitating access with services like travel, could create legal jeopardy for employers and the insurers that administer their health plans—and even potentially for individual employees, corporate officers or directors, legal experts said. Before the new Supreme Court decision, governments had created a patchwork of abortion-coverage rules.

Many states' Medicaid plans severely limit coverage of abortion, while federal programs like Medicare pay for it under very limited circumstances. States have also restricted abortion coverage in private insurance, with 11 of them banning abortion coverage in all plans they regulate. Yet state insurance rules don't apply to the type of coverage that is most common among midsize and large employers, known as self-funded plans. Self-funded plans, in which employers pay workers' health claims with their own money, are regulated at the federal level.

Federal regulations for self-insured plans don't spell out specific rules around abortion. A federal antidiscrimination statute requires all employers to provide health coverage to pay for an abortion if the life of the mother is at risk from the pregnancy.

If states do decide to enforce or enact laws that affect self-insured employers, they will set up court clashes. Employers will likely argue that state authority is pre-empted by federal laws that govern their plans, but lawyers said they don't know what will happen if states seek to use criminal laws against employers. Criminal laws that are broadly written may be able to overcome a pre-emption challenge, lawyers said.

Bank of America, Citigroup, Goldman Sachs and JPMorgan Chase already cover abortion for workers who have their medical benefits. The banks recently told employees that they will pay for travel if people have to travel far from home to be treated. The banks, which employ tens of thousands of people around the country, described their decisions as ensuring equal access to healthcare.

JPMorgan said it would start covering travel costs for all covered healthcare procedures on July 1st. The bank had previously covered travel expenses only for limited cases, such as organ transplants and bariatric surgery. The benefit covers the cost of traveling more than 50 miles.

EEOC UPDATES COVID-19 GUIDELINES

On July 12, 2022, the U.S. Equal Employment Opportunity Commission updated its COVID-19 FAQs, with specific emphasis on viral testing, antibody tests, and other issues relating to workplace safety. The agency's update arrives as the nation continues to wrestle with substantial community spread of COVID-19, and new and more contagious variants of the virus are emerging here and around the globe. Unfortunately, the update does not offer many specifics for employers, who continue to face the challenge of maintaining a safe, healthy, and productive work environment as more and more of their workers return to in-person work.

Most notably, with respect to requiring employees to be tested for COVID as a condition of returning to or remaining at work, the EEOC's updated guidance makes clear that an employer's ability to require such a test is not unlimited. Rather, an employer can require such testing only where it is "job-related and consistent with business necessity" under the Americans with Disabilities Act (ADA).

Specifically, the agency's updated guidance with respect to testing provides: A COVID-19 viral test is a medical examination within the meaning of the ADA. Therefore, if an employer implements screening protocols that include COVID-19 viral testing, the ADA requires that any mandatory medical test of employees be "job-related and consistent with business necessity." *Employer use of a COVID-19 viral test to screen employees who are or will be in the workplace will meet the "business necessity" standard when it is consistent with guidance from Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA), and/or state/local public health authorities that is current at the time of testing.*

If an employer seeks to implement screening testing for employees such testing must meet the "business necessity" standard based on relevant facts. *Possible considerations in making the "business necessity" assessment may include the level of community transmission, the vaccination status of employees, the accuracy and speed of processing for different types of COVID-19 viral tests, the degree to which breakthrough infections are possible for employees who are "up to date" on vaccinations, the ease of transmissibility of the current variant(s), the possible severity of illness from the current variant, what types of contacts employees may have with others in the workplace or elsewhere that they are required to work (e.g., working with medically vulnerable individuals), and the potential impact on operations if an employee enters* *the workplace with COVID-19*. In making these assessments, employers should check the latest CDC guidance (and any other relevant sources) to determine whether screening testing is appropriate for these employees.

The updated FAQs also restate the EEOC's position that while a viral test for COVID-19 may in some instances be justified for entry to the workplace, reliance on an antibody test is under no circumstances permissible under the ADA. In support of its position, the EEOC notes that as of July 2022, the CDC's guidance indicates that antibody testing may not show whether an employee has a current COVID infection or whether an employee is immune, and accordingly antibody tests do not satisfy the ADA's "business necessity" standard for medical examination. It is unclear what this means for employers in states where state law exempts an employee from a vaccination or test requirement based on COVID antibodies or "natural immunity." Presumably, if the employer is not requiring the employee to submit to an antibody test, but rather the employee is volunteering an antibody test result in support of their request for an exemption from a vaccination requirement, the situation would not implicate the ADA's prohibitions on employer-initiated medical examinations or inquiries. However, EEOC has yet to offer its position with respect to the numerous state laws that have departed from CDC guidance.

In light of the EEOC's recent updates, employers may wish to review their current protocols regarding mandatory testing for entry to the workplace and ensure that they are consistent with the agency's stated position. It may be that the EEOC has simply articulated the analysis that it intends to apply at the point when COVID-19 has abated. For now, as the pandemic continues, it would appear that testing for the virus remains "consistent with business necessity."

SOURCES

Wall Street Journal; Houston Chronicle; Houston Business Journal, Littler