

An Employee Tests Positive for the Coronavirus: Steps to Take

April 6, 2020 by Lorrie Ray, Esq., SPHR, Director of Membership Development

COVID-19, Health and Safety, Hot Topics

You just got off the phone with an employee who explains that their healthcare provider has told them they likely have COVID-19, and the employee is exhibiting symptoms of the virus. What do you do now?

The steps you take now are critical. The goal is to both contain the virus to the extent possible and follow workplace requirements. Under OSHA, you have a duty to warn, and under the Americans with Disabilities Act, you must care for the health of your employees without disclosing the health information of any individual. You must first gather information, then take action.

Gather Information

The best place to start is a conversation with the employee to find out all that you can about:

- The particular facts of the exposure to the virus if known.
- The date of onset of symptoms.
- When they were last in the workplace.
- What areas of the workplace they were in for the 14 days before symptoms appeared.

If an employee does not want to discuss this, explain that you will keep their information confidential, but you must learn all that you can to protect the health of other employees, and explain that it is required for you to find out this information. If the employee cites HIPAA privacy concerns, explain that this scenario is not subject to HIPAA because it involves information required for the safety and health of the workplace.

Take Action

- Instruct the infected/potentially infected employee to stay home.¹
- Encourage the employee to call their health care provider should their condition worsen.
- If you have fewer than 500 employees, place the employee on paid leave under the Families First Coronavirus Response Act. The length and payment calculations for leave, along with a sample policy and a sample leave form is in our COVID FYI, available on our website.
- Inform other employees that they may have been exposed to the virus, and provide the window of exposure as 14 days prior to the date of the confirmed diagnosis/probable diagnosis, and 14 days after.²
- If other (potentially exposed) employees cannot go to work due to the exposure and cannot telework, they may also be entitled to paid leave. Remember that this FFCRA leave is eligible for tax credits with proper documentation.
- Hire a cleaning company to clean the location following CDC guidelines.
- Remind any employee coming on-site to follow CDC protocols including social distancing, hand washing, and wearing a face covering.³

Continue to monitor the health of employees so that you can act accordingly for their welfare. Employers Council is continuing to put out guidance on our website, including a series of free webinars, and you are welcome to use any of the resources provided. Members should call with any assistance they need. While our offices are closed, we are working from home to be there for you.

¹ LAC - The employee's healthcare provider should instruct them as to when it is safe to return to work. The return to work guidelines and timeframe are different depending on whether the employee has had a COVID-19 test, versus being assumed to be positive versus merely recommended to self-isolate for symptoms of illness.

² Do not share the identity of the employee who is sick with other employees; just state there was a potential exposure and the potentially exposed employees should stay home to self-monitor for symptoms for the next 14 days.

³ Facemasks are not currently required, but are now being recommended by CDC if available/desirable when social distancing is not possible and/or there are more than 10 people nearby (e.g. grocery stores) and/or there are people who may have travelled to hot spot communities within past 14 days.