



Responding to an Employee's Positive Coronavirus Test

As the number of coronavirus disease 2019 (COVID-19) cases grows daily, employers across the country are dealing with the difficult situation of responding to an employee's positive COVID-19 test.

Employers are responsible for handling the situation swiftly to protect the health of other employees while preserving the affected employee's confidentiality. In addition to notifying the company and its customers, employers must also disinfect the office and evaluate next steps.

If you're in this situation, you may be wondering what you need to do. This article provides an overview of how you can respond to finding out an employee has COVID-19.

It is important to note that in trying to protect employees and limit the spread of COVID-19, employers are faced with having to implement some, if not all, of the referenced guidelines presented below when employees present symptoms related to COVID-19 and a positive test is implied.

Responding to the Employee

When you are dealing with an employee affected by COVID-19, you should respond calmly and empathetically. In these uncertain times, it can be easy to overreact, but you need to ensure that the infected employee is treated with compassion. Reassure the employee that their identity will remain confidential, and be sure to help them coordinate taking leave or paid time off until they've recovered.

Furthermore, employees who have COVID-19 symptoms upon arrival to work or become sick during the day should be separated from other employees and be sent home. Home isolation protocols should follow as outlined by the CDC guidelines.

To assist employers, the CDC has issued some interim guidelines for persons with COVID-19 under home isolation.

According to the interim guidelines: The decision to discontinue home isolation can be accomplished either with a nontest approach or get tested.

Persons with COVID-19 who have symptoms and were directed to care for themselves (nontest approach) at home may discontinue home isolation under the following conditions:

- At least 3 days (72 hours) have passed *since recovery* defined as resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms (e.g., cough, shortness of breath); and,
- At least 7 days have passed *since symptoms first appeared*.

You will also need to ask the employee some potentially difficult questions, including whom the employee has been in contact with in the last two weeks. Obtaining this information is essential so that you can directly notify customers and other employees that they may have been directly exposed to COVID-19.

Notifying Employees and Customers

Without disclosing the identity of the infected employee, you need to notify their co-workers, customers and the rest of the company.

Directly notify any co-workers or customers whom the ill employee had been in contact with. Be sure to remain calm and let them know that someone they have been in contact with or has been in their physical work area has tested positive for COVID-19. Recommend that they should self-quarantine for the next 14 days and monitor themselves for the symptoms of COVID-19. If feasible, allow eligible employees to work from home during this time.

Be sure to notify the rest of the company by email or letter that an employee has tested positive for COVID-19. Remember to keep the employee's identity protected and be transparent about your response. The communication should include what steps your company will be taking to protect the health of other employees. If you plan on having employees work from home for the next 14 days or closing the office, this information should be disclosed in the communication.

Disinfecting the Office

According to the Centers for Disease Control and Prevention, COVID-19 can remain on hard surfaces for up to 12 hours, creating a potential risk of transmission. Depending on the size of your organization, you may want to consider closing the office for a few days so that it can be thoroughly cleaned and disinfected. All surfaces that the infected employee may have touched should be disinfected, as well as other high-touch surfaces, which include countertops, cabinets, doorknobs, handles and chairs.

Evaluating Leave Policies

Employers need to evaluate what their next steps will be. For some, this may involve shutting down their office. For others, this may mean asking employees to work from home until further notice. Each business is unique and should make the best decision for their unique needs. Should your company decide to shut down, you will need to review your leave policies. Consider asking employees to use their sick leave or paid time off if you're shutting down the office. You should also be aware of provisions included in the newly instituted federal leave act, the Families First Coronavirus Response Act (FFCRA), should you need to close the office or if employees opt to take leave due to COVID-19.

The FFCRA—signed into law by President Trump on March 18, 2020—requires certain employers to provide employees with expanded family and medical leave for specified reasons related to COVID-19, which would apply from April 1, 2020, through Dec. 31, 2020.

The paid sick leave and expanded family and medical leave provisions of the FFCRA apply to certain public employers, and private employers with fewer than 500 employees. Certain provisions may not apply to certain employers with fewer than 50 employees. Small businesses with fewer than 50 employees may qualify for an exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

Generally, the FFCRA provides that employees of covered employers are eligible for:

- Two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to federal, state or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis
- Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to federal, state or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services (HHS), in consultation with the Secretaries of the Treasury and Labor
- Up to an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to telework) due to a need for leave because the employee:

1. Is subject to a federal, state or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine related to COVID-19;
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. Is experiencing any other substantially similar condition specified by the Secretary of HHS, in consultation with the Secretaries of Labor and Treasury.

Depending on the reason for the leave, employees will be eligible for differing length and amount of paid leave. In addition, under the FFCRA, an employee qualifies for expanded family and medical leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

Employers should contact Sinclair Risk & Financial Management for more information regarding the FFCRA to ensure that they can comply with the new law's provisions.

Conclusion

Due to the rapid spread of COVID-19, employers should be prepared to respond to an employee testing positive for the disease. By being prepared, employers can swiftly respond to the employee, notify the rest of their organization and make plans for moving forward.

Sinclair Risk & Financial Management is here to help during these uncertain times. Contact us today for additional COVID-19 resources and guidance for how your company can respond to it.