



## What Businesses and Employers Should Know About COVID-19

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The White House and Congress are working towards an agreement on a coronavirus emergency stimulus package that should describe conditions of sick leave for federal workers and provide for fourteen days of paid leave for all workers. We anticipate that it will include a refundable tax credit for small employers with 500 employees or less to help offset those costs, reimbursed by IRS.

### It is not advised to ask (or allow) younger/healthier employees to “work through it.”

- This will increase the spread of the virus to your more vulnerable employees
- It could place you at legal risk for not looking out for general employee welfare

### Ill employees should be required to self-quarantine.

- Ensure that they are aware they will not lose compensation for taking this step.
- COVID-19 illness may be considered a temporary disability under the ADA

### We recommend you take the following steps:

- Make sure you have updated emergency contact information for all employees
- Plan ahead by asking appropriate non-disability related questions of employees such as:
  - a. Could you make it to work if your kids had to stay home?
  - b. Could you get to work if public transportation options were limited?
  - c. Do you consider yourself to be in a “[high risk](#)” category for COVID-19 complications?
    - i. This is a yes/no question and further details should not be disclosed for obvious HIPAA purposes (high risk could be due to age, chronic conditions, immunosuppression, etc)
- Take the temperature (ideally infrared) of each employee as they enter the premises
  - a. This is NOT a HIPAA privacy violation unless you share the results publicly
- Require patients with a fever defined as 100.4° F [37.8° C] to leave the premises
  - a. If the employee refuses to leave then he may be deemed a substantial threat of harm to self or others. Then the elevated temperature may be publicly disclosed and local authorities may be contacted
- Clean frequently touched surfaces with diluted bleach or 70% alcohol solutions [per the CDC](#)
- Allow employees to work from home or at other remote sites when possible.
- Require employees to wear masks and other personal protective equipment when needed.

### Does your business need to continue to pay ill employees when not at work?

- If PTO or collective bargaining agreements apply, then generally yes.
- We expect a federal stimulus package in this regard.
- FMLA should also permit up to 12 weeks of unpaid time off.
- Generally, you only need to pay non-exempt employees for the hours they actually worked.
- ADA laws or local leave laws may require unpaid leave.
- If your employees fear loss of a paycheck, then they are more likely to try to work when ill

### If you are looking for additional resources, we recommend you start here:

The CDC has [Interim Guidance for Businesses and Employers page](#).  
 Fox Rothschild (a New York law firm) has an [excellent overview here](#).

