Taming the COVID-19 Chaos: What Employers Need to Know
PART 6: Bringing Employees Back to Work

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Taming the COVID-19 Chaos—Part 6: Bringing Employees Back to Work

Presented by Karen O’Connor, Matt Durham and Caroline Livett,
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April 28, 2020

Agenda for Today – Bringing Employees Back to Work

- Workplace and schedule modifications
- Medical screenings
- Offers of reemployment
- What to do if an employee gets sick
- Legal issues – FFCRA, FMLA, ADA, and W&H
Start planning now for when employees return to work

Workplace and Schedule Modifications

- Social distancing is here to stay, at least in the short-term
- Workplace modifications
  - Layout of workspaces
  - Where are employees sitting or standing?
  - Plexiglass and dividers
  - One-way aisles
- Schedule modifications
  - Staggered shifts and/or breaks
  - Flexible work hours
  - Shorter shifts
Workplace Modifications—Other Things to Consider

- Limit or prohibit visitors
- Virtual meetings
- Telework arrangements, on either a full- or part-time basis
- Pooling or adjusting task assignments to limit the number of employees who have to be onsite
- Require frequent handwashing
- Require face coverings and/or gloves
- Provide return to work training on hygiene and respiratory etiquette (+ no handshakes or hugs)
- Continued communication and posting of workplace notices

Medical Screenings?

- Temperature checks
- Ask about symptoms (fever, dry cough, shortness of breath)
- Ask about exposure to others who may have been exposed
- Require social activity questionnaires
- Exclude employees from work if they are showing symptoms
- Medical information needs to be kept confidential
- Consider if you want to require a medical release before the employee returns
Offering to bring laid off employees back

Offers of Reemployment

- Furloughed employees should be given an offer of reemployment, including:
  - Return to work date
  - Position and job duties
  - Supervisor
  - Exempt/non-exempt status
  - Rate of pay
  - Work schedule
Offers of Reemployment – Other Things to Include

• Will PTO/vacation/sick leave banks be reinstated or start at zero?
• Seniority considerations
• Explain what the company will be doing to keep employees safe and healthy
• At-will employment, expected to continue to comply with employment policies
• Give employee an opportunity to reach out privately with questions
• Emphasize that employment will be terminated if offer of reemployment is not accepted

Legal issues in the COVID-19 workplace
What to Do if an Employee Gets Sick

- Send employee home immediately
- Ask employee to provide you with list of other employees with whom employee has recently been in close contact
- Ask employee to notify you if he or she gets tested
- Notify other employees that someone they work with may have been exposed
- Provide reassurance about steps you are taking to keep the workplace safe
- Privacy concerns – do not disclose employee’s identity

Leave Requests

- FMLA or state family medical leave
  - Does a COVID-19 diagnosis count as a SHC?
  - Temporary OFLA extension for school/ daycare closures
  - How does a temporary furlough or layoff affect the eligibility requirements?
- FFCRA (emergency paid sick leave and paid family leave) – in effect through December 31, 2020
ADA Accommodations

• Threshold questions: Is the employee or applicant a qualified individual with a disability? Are you on notice?

• Potential ADA scenarios:
  • Requests for workplace modifications or to work from home
  • Being too scared or anxious to come to work
  • Inability to wear face coverings or PPE
  • Additional accommodations for employees who are considered to be at “high risk” if they contract COVID-19

Wage and Hour Issues

• Time spent waiting for temperature checks
• Time spent donning and doffing face coverings or other PPE (or getting fitted)
• Time spent training on appropriate hygiene and social distancing practices
• Telework and remote work issues
Questions?

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