



Covid-19 Workplace Considerations: My Employee Tested Positive, Now What?

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Berchem Moses COVID 19 Resource Page:
<https://www.berchemmoses.com/covid-19-updates/>

Focus Areas

- **What information do you need from the infected employee?**
- **What do you tell the infected employee?**
- **What can you reveal about the infected employee?**
- **What are the infected employee's leave rights?**
- **How do you make the workplace safer?**
- **How do employers address employee's re-entry into the workplace?**

What information do you need from the infected employee?

- Date of diagnosis
- Where employee travelled in last 14 days if international
- All areas where infected employee was present at facility 14 days prior to diagnosis
- Names of individuals who infected employee came in “close contact” with 14 days prior to diagnosis

What information do you need from the infected employee?

If employee taking FFCRA EPSL leave

- Notice after first workday that employee takes EPSL
- Employee must provide:
 - Name
 - Dates for which employee requests leave
 - Qualifying EPSL reason
 - Oral or written statement that employee is unable to work because of qualifying reason
 - Name of health care provider who advised employee to self-quarantine and/or tested employee

What do you tell the infected employee?

- **Do not come to work**
- **Notify your supervisor**
- **Isolate yourself from rest of people in home**
- **Consult healthcare provider**
- **Home isolation as recommended by health care provider**
- **Follow CDC recommended steps**

<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

What can you reveal about the infected employee?

Americans with Disabilities Act (ADA)

- **Co-Workers?**
 - Prohibits disclosure of identity of sick employee
 - Allows employer to provide co-workers with information that would help co-workers evaluate risk of infection or exposure
- **Vendors/Customers?**
 - Prohibits disclosure of employee's medical information to customers or vendors

What can you reveal about the infected employee?

Health Insurance Portability and Accountability Act (HIPAA)

- Co-Workers?
 - Generally not applicable
 - Applies to health plans, health care clearinghouses, and health care providers
 - Generally employer acting in its capacity as an employer not subject to HIPAA
 - Self-funded?
- Vendors or Customers?
 - Generally not applicable

What can you reveal about the infected employee?

Co-Workers That Had Direct Contact

- Request they not report to work for next 14 days and self-quarantine
- Allow to work remotely if possible
- Consider paying them during the 14 days; require/allow them to use their accrued vacation or sick leave first
- Encourage to reach out to health care provider

What can you reveal about the infected employee?

Sample Statement To Co-Workers

[Company] learned on **[date]** that an individual who was last physically present in the office on **[date]** tested positive for COVID-19 **[or was exposed to COVID-19]**. **[Company]** has taken all appropriate steps to ensure that the workplace was sanitized and will continue to adhere to the Connecticut DECD's Safe Workplace Rules and applicable CDC guidelines.

What can you reveal about the infected employee?

Sample Statement to Vendors/Customers

[Company] learned on **[date]** that an individual who was physically present at the location on **[date]** tested positive for COVID-19 **[or was exposed to COVID-19]**. **[Company]** has taken all appropriate steps to ensure that the workplace was sanitized and will continue to adhere to the Connecticut DECD's Safe Workplace Rules and applicable CDC guidelines.

What are the infected employee's leave rights?

FFCRA – Emergency Paid Sick Leave

- Applies to all employers with <500 employees
- Employees are eligible on first day of employment
- Up to 80 hours of paid sick leave (pro-rated for part time employees)
- In addition to already accrued sick leave
- 100% of regular rate capped at \$511 per day (\$5,110 total)

What are the infected employee's leave rights?

- Family Medical Leave Act (FMLA)
 - Traditional FMLA: Likely
 - FFCRA's FMLA+: No
- Accrued Paid Time Off
 - Sick Leave
 - Vacation
- Unemployment?
- Workers' Compensation?

How do you make your workplace safer?

Cleaning and Sanitizing Immediately

- Areas where infected employee worked for 14 days prior to diagnosis should be cleaned according to CDC Recommendations
 - <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html#Cleaning>
- Consider, where possible, shutting down department/location for 14 days
- CDC states that “If it has been more than 7 days since the person with suspected/confirmed COVID-19 visited or used the facility, additional cleaning and disinfection is not necessary”

How do you make your workplace safer?

Monitoring Employees

- Taking temperatures?
- Asking medical questions?
- Require COVID 19 testing?

How do you make your workplace safer?

Cleaning Going Forward

- EO7V: DECD Guidance must be followed by all Connecticut essential businesses and non-profits
 - <https://portal.ct.gov/DECD/Content/Coronavirus-Business-Recovery/Safe-Workplace-Rules-for-Essential-Employers>
 - Does not include municipalities
- New OSHA Poster: “Ten Steps All Workplaces Can Take to Reduce Risk of Exposure to Coronavirus”
 - <https://www.osha.gov/Publications/OSHA3994.pdf>

How do you make your workplace safer?

Executive Order 7BB

- Employee required to wear mask or other cloth material that covers his or her mouth and nose while in the workplace
- Employers shall issue masks or cloth face coverings to their employees

DEDC Guidance

- Required to wear mask or face covering from time enter building until time arrive at cubicle/work station and at any time leaving work station and moving around common areas (i.e. in hallways and stairwells, going to the restroom or break room, etc.)
- May remove masks in workplace settings where employees are working alone in segregated spaces (i.e. cubicles with walls, private offices, etc.)

How do you address employee re-entry into workplace?

Can I require a fitness for duty certificate?

Can I ask employee about symptoms?

Can I take an employee's temperature?

Can I prevent from returning if they are in a vulnerable group?

Am I required to grant reasonable accommodations related to COVID-19?

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