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

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# Presenters



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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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