



# DEED Developments

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## Safely reopening and returning to work: What businesses and workers need to know

As Minnesota businesses begin the process of reopening and safely returning people to work, we know there are a lot of questions. We've answered many of the most common questions at [mn.gov/deed/safework](https://mn.gov/deed/safework), and I encourage businesses and workers alike to review customized guidance there.

We also know that businesses and workers may be wondering about the process for bringing workers back into the workplace, and that many workers may have concerns about returning to the workplace given the threat of COVID-19. On May 13, Governor Walz issued [Executive Order 20-54](#) which provides more clarity on worker protections in light of the COVID-19 pandemic.

We hope that this post will address some additional questions about how unemployment insurance works in this context.

Here's what you need to know:

**Most importantly, businesses must be safe and healthy for their workers and customers.**

- Businesses must follow all CDC and MDH guidance and OSHA standards about creating a safe and healthy environment for workers and customers.
- A business may not take adverse action (including terminating, laying off or other retaliatory action) against a worker for raising safety and health concerns, refusing to work under conditions they reasonably believe are

unsafe or unhealthy related to COVID-19, participating in union activities concerning work place safety and health issues, filing a safety and health complaint, or participating in an OSHA investigation.

**In order to reopen, any non-Critical Sector business or retail establishment must have a COVID-19 Preparedness Plan in place to protect the health and safety of their workers.**

- Plans are extremely important to provide direction on how workers are going to remain safe. To help in the process, Minnesota Department of Health (MDH), DEED, and the Minnesota Department of Labor and Industry (DLI) have developed a [template plan](#) and [guidance](#) that businesses can use as a starting point. Businesses aren't required to use this template, but a business' plan does need to follow CDC and MDH guidelines and OSHA standards.
- Wherever possible, workers should continue to work from home.
- Businesses are encouraged to consult with workers on the development of their plans – it will make the plans better, proactively address many worker concerns and ensure workers are invested in the new norms businesses are setting.
- We aren't requiring businesses to submit their plans to the state for approval, but businesses should be prepared to provide a copy of your plan if requested.
- Copies of the plan must be shared with workers in advance of reopening and posted at the workplace.

**Once a COVID-19 Preparedness plan is in place and workers are called back to work, anticipate that some may be nervous or worried about returning to the workplace. Be flexible and provide necessary accommodations for workers.**

- This is an uncertain and challenging time, and many workers may have concerns about being back at work. Workers should also not have to sacrifice

their health and safety for economic security. Businesses are encouraged to be as flexible as possible with workers, be responsive to requests for accommodations and ensure that you have provided appropriate protective gear in accordance with CDC and MDH guidance and OSHA standards – such as gloves if handling goods or money with customers, and non-medical face coverings.

**Some employees may not be able to return to work.**

- Executive Order 20-05 provides a list of COVID-19 exemptions for workers, including those with underlying health issues or caretaking responsibilities.
- Workers who qualify for these exemptions do not need to return to work and will continue to qualify for Unemployment Insurance benefits.

**If a worker feels that their employer is not operating with a COVID-19 Preparedness Plan and/or not following health and safety protocols, there is action they can take.**

- Any worker who believes that their workplace is not following their COVID-19 Preparedness Plan or is not following CDC or Minnesota Department of Health guidelines is encouraged to attempt to resolve their concerns directly with their employer.
- If the worker is not successful in that attempt, is not comfortable raising their concerns with their employer, or has additional concerns about the safety of their workplace, the worker should contact Minnesota OSHA at 651-284-5050 or [Compliance@state.mn.us](mailto:Compliance@state.mn.us).
- If a worker raises concerns with an employer about not operating with a COVID-19 Preparedness Plan and/or not following health and safety protocols and the employer does not address the concern in a reasonable amount of time, the worker can quit and not lose unemployment insurance eligibility benefits as long as it was reasonable to do so.

- If a worker is fired for raising concerns about workplace safety--either with Minnesota OSHA or directly with their employer--they will not lose unemployment benefits eligibility.

**State Unemployment Insurance law prevents the state from continuing to pay benefits to those who are no longer eligible.**

- Workers who are offered the opportunity to return to work and don't qualify for an exemption under Executive Order 20-05 or state unemployment insurance law are no longer eligible to receive benefits.
- We ask every applicant on a weekly basis whether they have refused an offer of suitable employment. Providing inaccurate information may result in an applicant being held overpaid for unemployment benefits.
- When workers return to work or want to stop requesting unemployment benefits, no additional notification is needed. They simply should stop requesting weekly benefits in their unemployment insurance account. Some additional information about unemployment and returning to work can be found [here](#).
- Under Minnesota law, businesses can "raise an issue" regarding a former employee's eligibility for unemployment insurance
- Raising an issue is the way to tell us that you have a question regarding an employee's eligibility for unemployment. [You can find more information about how to raise an issue here](#).
- Businesses must follow all CDC and MDH guidance and OSHA standards about creating a safe and healthy environment for workers and customers. For non-Critical Sector businesses, this includes having a COVID-19 Preparedness Plan.
- A business may not take adverse action (including terminating, laying off or other retaliatory action) against a worker for raising safety and health concerns, refusing to work under conditions they reasonably believe are

unsafe or unhealthy related to COVID-19, participating in union activities concerning work place safety and health issues, filing a safety and health complaint, or participating in an OSHA investigation.

**If a worker or employer notifies the department that an offer to return to work was refused, we will review the applicant's eligibility for unemployment. What happens next?**

- DEED will mail questionnaires out to both the applicant and employer about why the applicant did not return to work – including questions about the applicant's medical situation. A doctor's note may be requested during any follow-up process for additional information.
- Once the department has enough information to make a decision, a written determination about the applicant's continued eligibility for unemployment will be provided.
- At this point, either the applicant or employer can [file an appeal](#) within 20 calendar days. Minnesota Unemployment Insurance Law provides an opportunity for a fair and impartial hearing to any party who disagrees with a determination issued by the Minnesota Unemployment Insurance Program.
- A telephone hearing and an appeals process follow from there, which will be outlined in detail to any worker or employer in this situation.

We know that both businesses and workers want to make the process of returning to work safe, effective, and fair. Thoughtful planning, clear communication, and a collaborative and generous spirit are going to get us through this difficult time.

We hope these guidelines make it clear how this process will work, and we encourage everyone to get more information in the FAQ section of UIMN.org.

**- Commissioner Steve Grove**