
COVID-19 Update

Manufacturers' Association Webinar

August 4th, 2020

Mfgs. COVID-19 Update – HR and Legal

Speakers Panel

- John C. Porter, Esq.– *Griffith, Lerman, Lutz & Scheib*
- Vicki Krotzer, PHR, SHRM-CP, HR Consultant – *The Manufacturers' Association*
- Becky Stauffer, SPHR, SHRM-SCP, HR Consultant – *The Manufacturers' Association*

Moderator: Tom Palisin, Executive Director

Mfgs. COVID-19 Update

AGENDA

- I. Update on Federal/State Orders, Regs and Funding**
- II. New Travel Quarantine Policy, Toolkit and Testing Resources**
- III. Refresher and New Guidance on Handling Exposures at the Workplace**

Q&A

Coronavirus Legal Update –

John C. Porter, Esquire
In Conjunction with the Manufacturers' Association

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• Families First Coronavirus Response Act – A Refresher

- Emergency FMLA Expansion Act . . . expires 12/31/20
- Emergency Paid Sick Leave Act . . . expires 12/31/20

Families First Coronavirus Response Act – A Refresher

- Emergency FMLA Expansion Act

The employee is unable to work (or telework) due to a need for leave to care for the employee's minor child:

- * If the school or place of care has been closed or
- * The childcare provider is unavailable, due to a public health emergency

• Families First Coronavirus Response Act – A Refresher

- Emergency Paid Sick Leave Act

Unable to work or telework due to:

1. a governmental quarantine or isolation Order
2. advice of a health care provider to self-quarantine
3. symptoms of Covid-19 and is seeking a medical diagnosis
4. caring for an individual subject to a governmental quarantine or isolation order
5. caring for a son or daughter when school/place of care is closed, or the childcare provider is unavailable
6. other similar condition specified by the Secretary of Health and Human Services

• Governor Wolf's July 15 Order

- * Nightclubs May Not Be Open
- * Bars And Restaurants Are Limited To 25% Fire Code Occupancy
- * May Only Be Open For Meals
- * Discreet Indoor Gathering In Food Retail Industry Is Limited To 25 Persons
- * Social Distancing, Masking, And Other Mitigation Measures Must Be Employed
- * Other Events Outside Of The Food Retail Industry –
Business Meetings And Conferences With More Than 250 Persons Are Prohibited



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Governor Wolf's July 15 Order

ALL BUSINESSES

- * Are Required To Conduct Their Operations Through Individual Teleworking of Employees When Possible
- * Where Teleworking Is Not Possible, Employees May Conduct In-Person Business Operations

IF THE BUSINESS Complies With:

• Governor Wolf's July 15 Order

IF THE BUSINESS Complies With:

- The Secretary Of Health's April 5 Order Regarding Building Safety Measures;
- The Secretary Of Health's April 15 Order Regarding Business Safety Measures; and
- All Existing And Future Guidance Issued By the Commonwealth and the CDC.



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• Governor Wolf's News Release of July 2

Governor Wolf Advises Travelers To Self-Quarantine For 14 Days Following Travel To Certain States

“IT IS RECOMMENDED THAT YOU QUARANTINE FOR 14 DAYS UPON RETURN”

<https://www.health.pa.gov/topics/disease/coronavirus/pages/travelers.aspx>



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Alabama
Arizona
Arkansas
California
Florida
Georgia
Idaho

Iowa
Kansas
Louisiana
Mississippi
Missouri
Nevada
North Carolina

Oklahoma
South Carolina
Tennessee
Texas
Utah
Wyoming

*Updated 7/31/2020



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So the \$5,110 question is:

Does an employer have to pay an employee to quarantine under the Emergency Paid Sick Leave Act (EPSLA) if the employee vacations in one of these states?

- * It appears as though the first 10 days should be paid if the employee has not already used this benefit under the EPSLA
- * The Department of Labor has issued regulations for paid leave under the FFCRA

• Governor Wolf's News Release of July 2

29 CFR § 826.10 - GENERAL.

Subject to a quarantine or isolation order. For the purposes of the EPSLA, a quarantine or isolation order . . . also includes when a Federal, State, or local government authority has advised categories of citizens (e.g., of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of employees to be unable to work even though their employers have work for them.



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Every Business Should Have A Policy:

- * Consult with legal counsel
- * Communicate the Policy to all employees
- * Apply the Policy uniformly
- * Employee Safety is paramount



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Back To School

So the \$5,110 question is:

What Happens If Schools Open Only For Virtual Attendance?

The Emergency FMLA Expansion Act Only Provides For Paid Leave:

- * if the school or place of care has been closed
- * or the childcare provider of such son or daughter is unavailable, due to a public health emergency

Back To School

Department of Labor FAQ - Answer

If the physical location where [an employee's] child received instruction or care is now closed, the school or place of care is "closed" for purposes of paid sick leave and expanded family and medical leave. This is true even if some or all instruction is being provided online or whether, through another format such as "distance learning"

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#70>



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Back To School

Department of Labor FAQ - Answer

The Department encourages employers to permit employees to take **Intermittent** Expanded Family and Medical Leave. Intermittent Expanded Family and Medical Leave is not required but may be offered to employees.

This is true whether teleworking or not teleworking.

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#22>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#20>

THANK YOU!



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Status of COVID-19 Testing in Central PA & Employee Travel Assessments

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State of COVID-19 Testing in PA

- Long wait for results – often 7+ Days
- **Wellspan** – only testing individuals with active symptoms
- **Penn-Medicine**(Lancaster General) require employees to go to their PCP for lab slips and do not COVID test through Occupational Medicine Departments.
- **Quest** has an at home Self Collection test. (7-14+ days for results)
- **UPMC Express Care** (Hanover Works), **Concentra**, **Worknet** offer Return to Work testing for asymptomatic employees.
- **Patient First** - 12-15 days for Lab Results
- **Worknet**- most responsive to employers and moving to 2-4 day testing, onsite testing.
- Consider other vendors **CVS**, **RiteAid**



Occupational Health Service Provider	Area served	Phone	COVID-Testing	Turnaround time	More info
Wellspan Occupational Health	York/Chambersburg/Gettysburg/Ephrata	717-851-1600	not doing covid testing. Send employee to their PCP. No COVID testing without lab slip at Wellspan.	7 + Days	
UPMC Express Care, Hanover Works	Spring Grove/New Oxford/ Hanover	717-633-2144	only non symptomatic patients for return to work		
Patient First	York/Harrisburg/Lancaster	(866) 253-9139	yes	12-15 Days	https://www.patientfirst.com/covid-19
Concentra	Carlisle/Camphill/Hershey/York/Lancaster/Reading	717-391-3087	only non symptomatic patients for return to work	up to 2 weeks	
Lancaster General Health Occupational Medicine/Penn-Medicine	Lancaster/Berks	(717) 544-3155	None through Occ Med- Refer to hospital (Penn-Medicine only with lab slip from PCP)	2-7 Days	
Worknet	Lancaster/Ephrata/Reading/Harrisburg/Mechanisburg	Call Stephanie Stump 484-336-6697	yes, RTW, Onsite teams, asymptomatic employees only	3-10 days but moving to 24-48 hours vendor	https://www.worknetoccupationalmedicine.com/
Labcorp		https://www.labcorp.com/coronavirus-disease-covid-19/employer-services	Onsite Testing	2-4 Days (according to website)	
Quest		18666078378	Self Collection: https://www.youtube.com/watch?v=ZiwYWUfwBy8	more than 7 days.	https://www.questforhealth.com/covid-19-testing/

CVS – COVID19 Testing

Must schedule online only all locations
If symptomatic, can schedule without PCP referral
If asymptomatic, must receive referral from PCP
Results in 6-10 days
Free of Charge

<https://cvshealth.com/covid-19/return-ready>

<https://cvshealth.com/covid-19/testing-locations>

RiteAid – COVID19 Testing

Only certain locations have testing available (listing on website - locally those who do York, Lebanon, Harrisburg, Lansdale, Reading)

Must complete pre-screening questionnaire for symptoms to be screened for testing

Results in 2-7 days

Free of Charge

<https://www.riteaid.com/pharmacy/services/covid-19-testing>

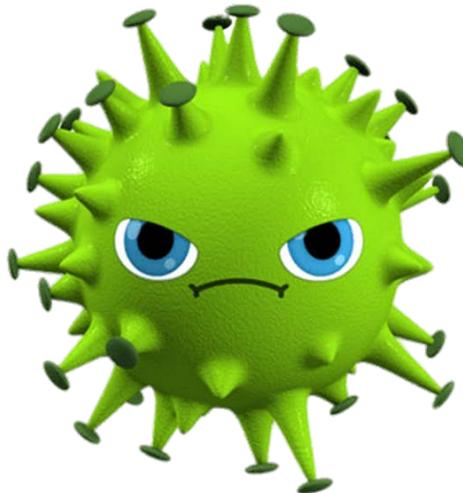
Travel Policy

- Create a policy
- Have employees document travel plans in advance (or large events)
- Advise the Employee what will happen when they return to Pennsylvania.
 - Monitor Symptoms
 - Testing
 - Isolate at Work
 - Remote Work
 - Quarantine using PTO/Vacation time, as an unpaid leave.

Travel Risk Assessment Tool

<p>Travel Risk Assessment</p> <p>To be completed by the Employee</p> <p>XYZ Company works to maintain traveling outside of Pennsylvania this form 7 day prior to travel.</p> <p>Because of Covid-19 Travel Restrict before you can return to your posit</p> <p>It is important to determine when you leave this "quarantine period" leave conditions. (i.e. Continued employ</p> <p>Name: _____</p> <p>Employee Number: _____</p> <p>Dates of Travel: _____</p> <p>Location of Travel: _____</p> <p>How will you be getting to your loca</p> <p><input type="checkbox"/> Car <input type="checkbox"/> Airplane</p> <p>Description of Trip:</p> <p>Describe any addition al precaution</p> <p>Check all the boxes that are true</p> <p><input type="checkbox"/> I will stay in a hotel</p> <p><input type="checkbox"/> I will stay in campground w</p> <p><input type="checkbox"/> I will be in a gathering of m</p>	<p>In your position</p> <p><input type="checkbox"/> I am required to work in person at a workers.</p> <p><input type="checkbox"/> I have the ability to work in an isolat employees.</p> <p><input type="checkbox"/> I can do the essential functions of m working remotely.</p> <p>If you plan to travel, to an area where recommended by the State of Pennsylvania. Mat that you quarantine when you arrive.</p> <p>Please attach the current restrictions for Pennsylvania.</p> <p>For information about current travel restrictions: https://www.health.pa.gov/topics/diseases-and-conditions/travel</p>	<p>LEAVE APPROVED WITH CONDITIONS COMMUNICATIONS</p> <p>To be completed by Human Resources and a copy given to the employee</p> <p>Dear NAME OF EMPLOYEE</p> <p>On DATE OF REQUEST you submitted a request for travel to PLACE on DATES OF TRAVEL.</p> <p>The 14 days upon your return you shall</p> <p>___ Self Quarantine at home, based on your position you will not be able to do the essential functions of your position until the period is over.</p> <p>___ Self Isolate when returning to work. You will only be allowed to be in your workspace. (You may not attend in person meetings, use lunchrooms, meet face to face with client, coworkers or vendors. add more text</p> <p>___ Work remotely and will not be allowed to return to the office.</p> <p>Employees isolating at work will need to</p> <p>___ Complete a health assessment and document your trip exposure</p> <p>BE ADVISED this trip is voluntary, the period of Self Quarantine following the trip will</p> <p>___ Be unpaid, employees may use vacation time, PTO time to cover this period but it will be unpaid. The employee understands that work is continuing and available and it is possible this time will be uncompensated if there is not enough paid leave time accrued.</p> <p>___ Be designated as a ___ paid ___ unpaid leave period</p> <p>___ Type of leave ___ FFCRA Leave, ___ Personal Leave (add other type of company leave)</p> <p>___ Be capable and allowed to work remotely.</p> <p>___ follow strict protocols to isolate at work.</p> <p>___ Other</p> <p>Alternative to Self-Quarantine.</p>
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When an Employee Tests Positive!



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	Exposure to	Recommended Precautions for the Public
<ul style="list-style-type: none"> Individual who has had close contact (< 6 feet)** for ≥15 minutes*** 	<ul style="list-style-type: none"> Person with COVID-19 who has symptoms (in the period from 2 days before symptom onset until they meet criteria for discontinuing home isolation; can be laboratory-confirmed or a clinically compatible illness) Person who has tested positive for COVID-19 (laboratory confirmed) but has not had any symptoms (in the 2 days before the date of specimen collection until they meet criteria for discontinuing home isolation). <p>Note: This is irrespective of whether the person with COVID-19 or the contact was wearing a mask or whether the contact was wearing respiratory personal protective equipment (PPE)</p>	<ul style="list-style-type: none"> Stay home until 14 days after last exposure and maintain social distance (at least 6 feet) from others at all times Self-monitor for symptoms <ul style="list-style-type: none"> Check temperature twice a day Watch for fever (*over 100.4 degrees), cough, or shortness of breath, or other symptoms of COVID-19 Avoid contact with people at higher risk for severe illness from COVID-19 Follow CDC guidance if symptoms develop
All U.S. residents, other than those with a known risk exposure	<ul style="list-style-type: none"> Possible unrecognized COVID-19 exposures in U.S. communities 	<ul style="list-style-type: none"> Practice social distancing and other personal prevention strategies Be alert for symptoms <ul style="list-style-type: none"> Watch for fever*, cough, or shortness of breath, or other symptoms of COVID-19 Check temperature if symptoms develop Follow CDC guidance if symptoms develop

Communicating With Infected Employee and Others

- First, when the employee brings you the news, **express sympathy**. Even if the person's symptoms are mild, they are likely to be anxious about what might happen or whether they might have spread the virus to their family or coworkers. Let the employee share their feelings
- You need to act quickly to minimize the risk of the disease spreading. At this point, most HR departments should have some protocols in place, and you will want to utilize their support and guidance
- Minimally, you will need to ask the employee which coworkers they have been in “close contact” with within the prior two weeks. (The CDC defines “close contact” as “a person that has been within six feet of the infected employee for a prolonged period of time.”)

Contact Tracing

- You should alert those who have been in close contact with the employee as soon as possible, repeat the advice given on the [CDC site](#) for their situation and, of course, direct them to their own doctors
- The law is clear about confidentiality here: You should tell everyone who was possibly exposed at work to the positive employee without revealing that employee's identity
- Someone, preferably from HR, should connect with any close contacts the employee has had. Since this is a sensitive topic, **it's ideal to alert the coworkers by video or phone**. If you can't reach them personally, email them with "important action required" in the subject heading



Contact Tracing

- **Message is the same:** “Someone in our workplace has tested positive for COVID-19, and they have identified you as a close contact according to the CDC definition. We are here to support you. If you are at work, please prepare to leave as quickly as you can. Once you get home — or if you are already working from there — find a place to self-isolate, monitor yourself for any symptoms, and talk to your doctors
- **You can expect people in the close contact group to be nervous** and ask a lot of questions, especially if it’s the first time they are receiving such news. Since several days have passed between their exposure to the COVID-positive colleague, they may ask you if their family is at risk. Don’t speculate. You are not a doctor, Instead, refer them to their own physician and to the CDC website. What you *can* do is reassure them that the company, and you, will be supportive
- **Follow up this conversation by email.** It’s likely that the person you were talking to was feeling overwhelmed and did not catch everything you said. A written follow-up is always good practice, if only to help keep track of this process inside of your company

Communication to the Workforce

- Once you have spoken with both the employee who tested positive and their close contacts, consider alerting others in the workplace. The message you send here will showcase how your company treats people, so it's important to be transparent and calming
- Then simply give them the facts: "The person tested positive on a certain date and is now self-isolating. The close contacts have been told and were asked to leave the workplace and self-isolate. If you were not already told you were a close contact, then you are not one. If you have questions about COVID-19 or your situation please call your doctor and look at the CDC website. The company is here to support everyone during this difficult time"
- **Do not permit the diagnosed employee to return to work until she has been free of symptoms for 72 hours or cleared by a physician**
- It may be unrealistic in the current health climate to expect a formal return to work certification from a primary care doctor, but you may rely upon a form from a local clinic or an email from such a facility to confirm the employee does not have the virus

Communication to the Workforce

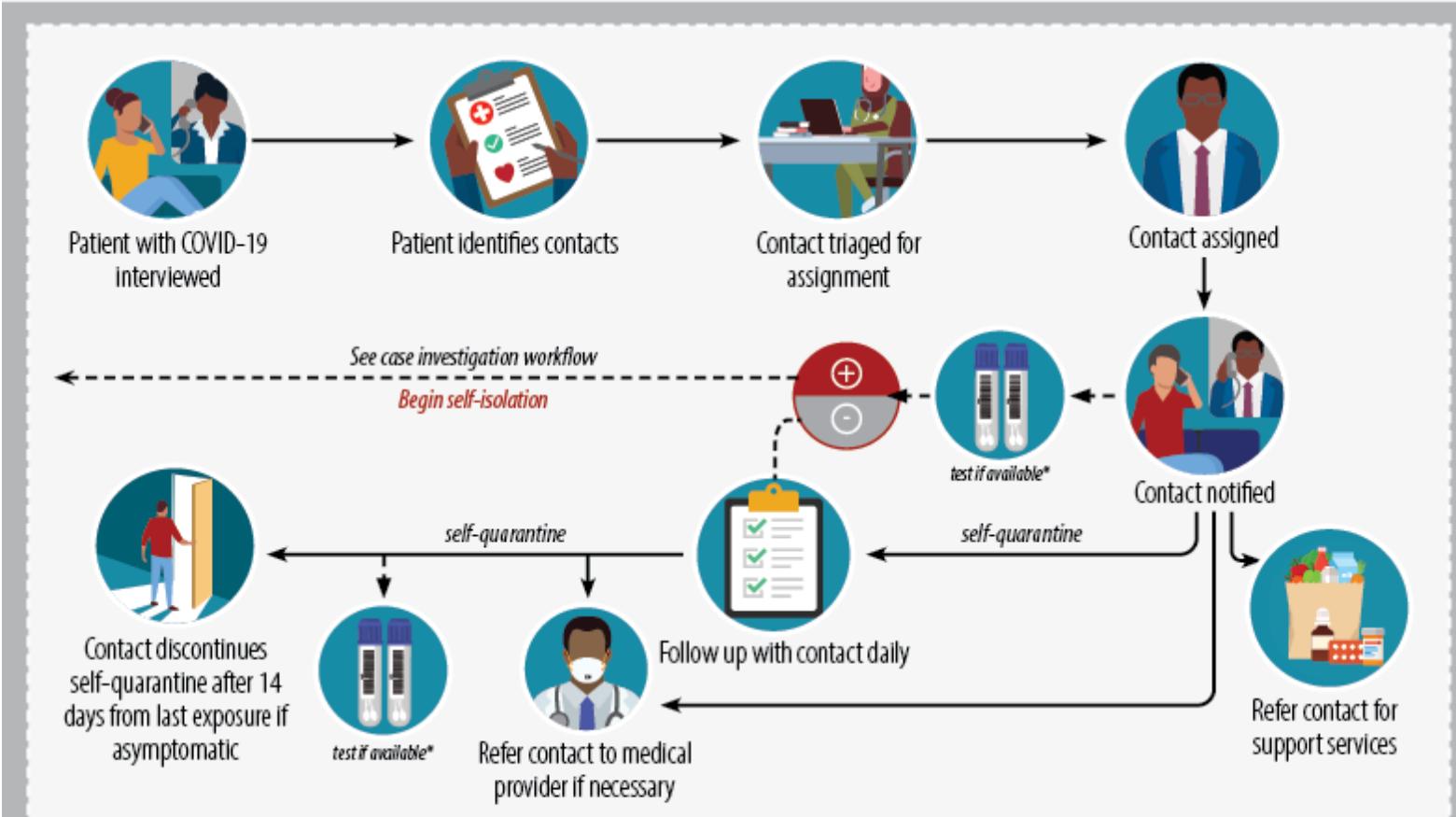
- Continue to require employees to monitor themselves for symptoms and stay home if they exhibit any symptoms
- Employers are permitted to ask employees if they are experiencing symptoms of COVID-19, and whether they have been in contact with anyone diagnosed with or exhibiting symptoms of COVID-19
- CDC guidelines recommend cleaning and disinfecting the work facility used by the diagnosed employee. Refer to the CDC's instructions on Cleaning and Disinfecting Your Facility for specific guidance on disinfecting your work environment (<https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/overview.html>)

COMMUNICATION



CONTACT TRACING WORKFLOW (COVID-19)

Access this slide <https://www.cdc.gov/coronavirus/2019-ncov/hcp/contact-tracing/contact-tracing-a-hp/contact-tracing.html>



cdc.gov/COVID19

CS17004-4 06/15/2020

Who Else are we Required to Report to?

OSHA's position—effective immediately and for the duration of the public health crisis—is that employers must report to OSHA any confirmed COVID-19 illness diagnosis that is both (i) work-related, and (ii) involves OSHA general recording criteria.



Under OSHA's recordkeeping requirements, COVID-19 is a recordable illness, and thus employers are responsible for recording cases of COVID-19, if:

- The case is a confirmed case of COVID-19, as defined by the Centers for Disease Control and Prevention (CDC);[2]
- The case is work-related as defined by 29 CFR § 1904.5;[3] and
- The case involves one or more of the general recording criteria set forth in 29 CFR § 1904.7.[4]

COVID -19 Reporting

The evidence that a COVID-19 illness was contracted at work. CSHOs should take into account all reasonably available evidence, in the manner described above, to determine whether an employer has complied with its recording obligation. This cannot be reduced to a ready formula, but certain types of evidence may weigh in favor of or against work-relatedness. For instance:

- COVID-19 illnesses are likely work-related when several cases develop among workers who work closely together and there is no alternative explanation
- An employee's COVID-19 illness is likely work-related if it is contracted shortly after lengthy, close exposure to a particular customer or coworker who has a confirmed case of COVID-19 and there is no alternative explanation
- An employee's COVID-19 illness is likely work-related if his job duties include having frequent, close exposure to the general public in a locality with ongoing community transmission and there is no alternative explanation



COVID -19 Reporting

- An employee's COVID-19 illness is likely not work-related if she is the only worker to contract COVID-19 in her vicinity and her job duties do not include having frequent contact with the general public, regardless of the rate of community spread
- An employee's COVID-19 illness is likely not work-related if he, outside the workplace, closely and frequently associates with someone (e.g., a family member, significant other, or close friend) who (1) has COVID-19; (2) is not a coworker, and (3) exposes the employee during the period in which the individual is likely infectious
- CSHOs should give due weight to any evidence of causation, pertaining to the employee illness, at issue provided by medical providers, public health authorities, or the employee herself

How do Employees Get Paid?

- First use the Paid Leave Under the FFCRA (Families First Coronavirus Response Act) – in effect through 12/31/2020
- Use employee Sick time or Vacation Time
- Encourage employee to file for Unemployment Insurance**

*** Directly from Pennsylvania UC Website*

Q: Can my employees file for UC benefits if I tell them to stay home because I think they are at risk of spreading or at risk of contracting COVID-19?

A: *Your employees may be eligible for new paid sick leave and expanded Family and Medical Leave (FMLA) as provided by the federal Families First Coronavirus Response Act which is administered by the US Department of Labor.*

If your employees are not receiving paid time off, they may be eligible for UC benefits.



COVID-19 Funding for Businesses

Funding Source	Grant/Loan	Due Date	Eligibility	Where Appy
US Treasury	Loan (deferred pmts), 5 year term	9/30/2020	Most Mid/Small Businesses	Participating commercial banks LINK
County CARES Funding	Grants - \$50k max	Varies – Check with County Econ. Dev.	Small Businesses and non-profits. Show impact of COVID-19.	County Commissioners or County Econ. Dev. Agencies
PA State COVID Small Bus. Fund	Grants - \$50k Max	Closed, Round 2 open August	25 employees or less, \$1mm or less	Community First Fund
Paycheck Protection Program (PPP)	Loan (forgiveness option)	August 8 th Deadline	Impacted by COVID-19, apply at banks	Commercial Banks US Small Business Administration
US Small Business Admin – Economic Injury Disaster Loan	Loan	Open	Small Business (<500)	US Small Business Administration
PA 30 Day Fund	Forgivable Loan - \$3,000	open	Small Business, 3-30 employees	PA 30 Day Foundation: https://v30df.smapply.io/prog/pennsylvania_30_day_fund/
Essential pay program -	Grant	July 31 st deadline	Businesses Apply. Food Mfgs, other frontline Healthcare businesses	PA Dept. of Econ. Development

COVID-19 Services for Businesses

Funding Source	Service	Due Date	Eligibility	Where Appy
PA Dept. Of Labor	Rapid Response – layoff placement services	Open	WARN Notices	PA Dept. L&I
MANTEC	Free Services/Consulting for COVID-19 impacted businesses	Until funds expended	Manufacturers	MANTEC
Strategic Early Warning Network (SEWN)	Free Turnaround consulting support (PA Dept. of Labor)	Open	Manufacturers with actual or possible financial or employment declines	Steel Valley Authority
Tax Credits/deferrals /NOLs	Federal and State Programs	Mostly only 2020	Any Business	Federal CARES Act Coronavirus Reponses ACT US Treasury PA Dept. of Revenue
				How to "get" tax credits from the IRS for COVID-19. https://www.irs.gov/forms-pubs/about-form-7200

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Questions?

- Resources: <http://www.mascpa.org/covid-19/>
- Association Member Hotline: hr@mascpa.org