

Swine Flu Update - Tips for Managing the Workplace

As you are undoubtedly aware, earlier this week, U.S. health officials declared a public health emergency due to the spread of Swine Influenza ("swine flu") in the U.S. The World Health Organization raised the influenza pandemic alert to phase 5, out of 6, urging all countries to activate their pandemic preparedness plans. As of today, state public health authorities have reported 16 probable cases of swine flu in Washington. Employers must be prepared to address employee concerns about the illness and distribute credible information. One way to do that is by sending employees a notice similar to the one below:

NOTICE TO EMPLOYEES REGARDING SWINE FLU OUTBREAK

To all employees:

The recent outbreaks of swine flu have been widely covered in the media. You may be wondering what you can do. There are several precautions each of us can take to reduce the spread of illness, including swine flu, at work. Below are links to various information sheets from the Centers for Disease Control and Prevention (CDC) and other public health organizations regarding the swine flu, how it's spread, the best ways to keep from spreading the virus to others, symptoms of the illness, and travel. Please take some time to review these information sheets and web pages noted below. If you develop flu-like symptoms, please do not come to work until you are fully recovered in order to keep others from getting sick, and follow company policies for providing notice of your absence. We will continue to watch for developments as the situation evolves.

We are committed to providing a safe and healthy workplace. Together, we can take significant steps to minimize illness at our workplace.

Swine Flu and You:

- www.cdc.gov/swineflu/swineflu_you.htm

Key Facts:

- www.cdc.gov/swineflu/key_facts.htm

Preventing the Flu:

- www.cdc.gov/flu/protect/habits.htm?s_cid=swineFlu_outbreak_003

Updates for Travelers:

- www.who.int/ith/updates/2009_04_28/en/index.html
- http://travel.state.gov/travel/cis_pa_tw/pa/pa_3028.html
- <http://wwwn.cdc.gov/travel/contentSwineFlu.aspx>

Such a notice not only connects employees with sources for the most current information and gives them direction as to what they can do to protect themselves and their coworkers, but affirms your business's commitment to providing a safe and healthy workplace.

CONTINGENCY PLANNING

If they have not done so already, businesses also should be developing illness and disaster readiness plans. Key components of such plans include:

- Training and preparing an ancillary workforce (e.g., contractors, retirees and/or cross-training the existing workforce);
- Establishing an emergency communications plan that identifies key contacts, a chain of communications, and methods of communicating business status;
- Developing and communicating procedures for identifying and preventing the spread of illness in the workplace;
- Reviewing hygiene and health care support, including providing antibacterial hand sanitizers or disinfecting wipes, talking to cleaning staff about steps they can take to further sanitize the workplace, and providing other materials helpful in preventing the spread of illness (e.g., masks);
- Reviewing travel, leave of absence, and telecommuting policies.

Detailed checklists regarding pandemic preparedness for businesses in a variety of industries are available at www.pandemicflu.gov, managed by the U.S. Department of Health & Human Services.

FREQUENTLY ASKED QUESTIONS

Of course, no notice will answer all of the concerns or questions employees might raise regarding the swine flu. Below are some common questions you might be faced with.

I'd prefer not to travel until the swine flu outbreak is contained. Can I cancel my planned business trip?

While concern about travel is understandable, at this point the U.S. government has recommended that people avoid non-essential travel only to Mexico; the government has not issued any travel advisories to other locations. Businesses that require employees to travel to Mexico should postpone such travel if at all possible. However, there does not appear to be any particular requirement or need for businesses to postpone or curtail business travel to other locations, assuming the employee is healthy. We recommend working with employees on a case-by-case basis to determine the purpose of their business travel needs and whether any adjustments to the schedule can be made. If business travel is unavoidable, businesses can refer employees to the CDC's website regarding travel precautions.

My coworker recently returned from a trip to Mexico. Can you make him stay home?

In most cases, the answer to this question is "no," particularly if the coworker has not developed any symptoms of the illness, and did not visit affected areas, hospitals, and the like. However, the CDC advises that any individuals with swine flu be sent home to prevent the spread of the virus. As an employer, you should encourage employees to report whether they feel ill and inform them to stay home if they develop flu-like symptoms. You should also communicate that any medical information will be kept confidential to the extent possible and that no employee will be retaliated against for reporting such information. If a report of swine flu is made at your workplace, contact the local public health authorities to coordinate an appropriate medical response and prevent spreading the illness throughout the workplace.

If I get swine flu, will I be eligible for Family and Medical Leave Act (FMLA) or other type of leave?

Employers with 50 or more employees must provide up to twelve weeks of leave to a qualified employee who has a "serious health condition," or if the employee's parent, spouse, or child has a "serious health condition." While more severe cases of swine flu might qualify as a "serious health condition," other cases might not. If an employee's child contracts the virus, or the employee's spouse, parent, parent-in-law, or grandparent contracts a severe form of the illness, qualifying it as a "serious health condition," the Washington Family Care Act allows the employee to use their choice of sick leave or other paid leave benefit to care for the child (e.g., sick time, vacation, PTO, some short-term disability plans).

If you have additional questions or concerns about how to manage swine flu at your business, please contact us.

Upcoming Events

June 10, 2009 Breakfast Briefing:

Bob Howie's Annual Employment Update

The **Riddell Williams Labor and Employment Group** helps businesses comply with labor and employment laws and resolve disputes with employees. Our practice consists of four primary areas: counseling, litigation, training, and traditional labor law.

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