

CDC issues return-to-work guidance for employees possibly exposed to COVID-19

10 April 2020

One of the first hurdles employers face during the COVID-19 outbreak is navigating essential-business designations and waiver requests. For more information on that subject, please see our previous client alerts published on [Essential Workforce Guidance promoted by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency](#) and on [Navigating Essential-Business Designations](#). Another obstacle is determining when and how to safely return critical-infrastructure workers to the job after employees might have been exposed to COVID-19.

On 8 April 2020 the Centers for Disease Control and Prevention (CDC) issued [interim guidance](#) to employers seeking to return to the workforce critical-infrastructure workers potentially exposed to COVID-19.

What does "potential exposure" mean?

The CDC defines "potential exposure" as living with a household contact or being within six feet of an individual with a confirmed or suspected case of COVID-19. The relevant timeframe for exposure begins 48 hours prior to when the individual with a confirmed or suspected case begins showing any signs or symptoms of COVID-19 infection.

Which critical-infrastructure workers are subject to this interim guidance?

The guidance does not specify whether it pertains to all critical-infrastructure workers within the 16 Critical Infrastructure categories [set out by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency \(CISA\)](#), or merely certain employees that employers subjectively characterize as "critical-infrastructure workers" based on what the CDC sets out in a seemingly nonexclusive list of critical-infrastructure workers who are subject to this interim guidance:

- Law-enforcement personnel;
- 911 call-center and Fusion Center employees;
- Hazardous-material responders;
- Custodial and janitorial staff; and
- Workers in food and agriculture, critical manufacturing, informational technology, transportation, energy, and government facilities.

What safety protocols should employers establish?

As a threshold matter, the CDC recommends that critical-infrastructure workers who may have been exposed to COVID-19 return to work *only* if they are asymptomatic. And even then, and **for all employees working in critical-infrastructure roles**, employers should implement the following safety protocols:

- **Prescreen:** The CDC recommends that employers take the temperatures of potentially exposed employees prior to those employees entering the facility or workspace.
- **Monitor regularly:** Even if a potentially exposed employee does not have a fever or any symptoms of COVID-19, the employee should self-monitor throughout the day through the employer's occupational-health program.
- **Wear a mask:** Employers should require that critical-infrastructure employees wear facemasks for 14 days following the last potential exposure to COVID-19. If employers have a shortage of facemasks, employees should follow the CDC's guidance on making [cloth face coverings](#), and employers should approve the employee's homemade face coverings prior to entering the facility.
- **Practice social distancing:** To the extent possible, potentially exposed employees should practice social distancing throughout the workday and remain six feet away from the nearest employee. Employers should facilitate social distancing by staggering lunch breaks and expanding break times and break rooms.
- **Disinfect and clean work spaces:** Employers should regularly clean and disinfect all work areas, especially offices, bathrooms, common areas, and shared electronic equipment. The CDC has issued guidance on [cleaning and disinfecting](#) workspaces.
- **Regulate shared equipment:** Employees should not share headsets or other equipment used in close proximity to an employee's mouth or nose.
- **Send sick employees home:** If any employee becomes sick during the workday, employers should send the sick employee home immediately.
- **Increase air exchanges:** Employers should coordinate with their facility maintenance staff to increase air flow in the workspace.
- **Maintain records:** The CDC recommends that employers compile and maintain records of which employees had contact with a sick employee, starting two days prior to the day the sick employee first showed symptoms. Any employees at the workplace having close contact with the sick employee should be considered exposed.

Conclusion

In determining when and how employees should return to work, employers should thoughtfully analyze which critical-infrastructure workers are required to perform in-person tasks (law-enforcement officers, for example), and follow the guidance of the CDC. Employers should implement and maintain all of the worker-safety protocols listed above, and post this [CDC flyer](#) throughout the workspace as well. Employers also should check state and local orders, which may require additional mitigation strategies and procedures for in-person operations.

Employers should continue to monitor and abide by federal guidance and state and local orders that may impact their employees, facilities, places of operation, and supply chains. Compliance with these mandates will ensure that critical operations can continue, while protecting the health of employees and the greater public.

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