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The Threat of Coronavirus in the Workplace: How to Prepare

Human Resources & Employment

The coronavirus, which originated in Wuhan, Hubei Province, China, in December 2019, has spread to the United States, although so far in very small numbers. The Trump administration and the World Health Organization (WHO) have declared the virus a public health emergency. Employers should monitor the developments related to the virus and develop a plan about how to continue operations and protect their employees.

Virus Update

On Jan. 31, 2020, the Trump administration announced that American citizens returning from certain parts of China would be quarantined for at least two weeks. Experts have now confirmed the virus is spreading from human-to-human (when an infected person coughs or sneezes) and local officials confirmed the first person-to-person transmission of the virus here in Illinois (from one spouse to another). The virus can even be spread by people not exhibiting symptoms, further complicating attempts to halt its rapid spread. As of Feb. 13, 2020, there are more than 60,000 people infected worldwide, and the WHO has stated there are no predictions as to when the coronavirus will be contained.

The U.S. Centers for Disease Control and Prevention (CDC) has set up a specific website for information on the coronavirus, now being referred to as COVID-19: <https://www.cdc.gov/coronavirus/index.html>.

Symptoms

According to the CDC, symptoms of the coronavirus include mild to severe respiratory symptoms such as fever, cough, shortness of breath and breathing difficulties. Severe cases have led to pneumonia, kidney failure and death. The CDC believes at this time that symptoms may appear within 2-14 days after exposure. Some infected individuals, however, have shown little to no symptoms.

Employer Best Practices

If they haven't already, employers should develop and implement a plan on how to address pandemics in the workplace. For example, employers need to be prepared to address a situation where employees have recently returned from China or may have otherwise been exposed to the virus.

While the Americans with Disabilities Act (ADA) generally prohibits disability-related inquiries and medical examinations of employees, employers are permitted to make inquiries that are not disability-related. In the case of the coronavirus, asking a new or current employee if they recently traveled to China is allowed, even if the travel was personal.

Employers should also consider sending employees home if they display pandemic-like symptoms during an outbreak. The CDC interim guidance on the coronavirus outbreak provides that any employee who has symptoms of acute respiratory illness is recommended to stay home and not go into work. The CDC recommends such employees stay home until they are free from fever, signs of a fever and any other symptoms for at least 24 hours.

Employers may also consider permitting or encouraging employees to work from home as a preventative measure for the incubation period of the virus. If an employee is confirmed to be infected by the COVID-19 virus, the CDC recommends that employers inform

fellow employees of their possible exposure to it in the workplace. Employers, however, must maintain confidentiality as required by the ADA. The ADA also allows for employers to take action where an employee poses a “direct threat.” The EEOC’s guidance on pandemic preparation in the workplace identifies four factors to consider when determining if an employee poses a “direct threat”:

1. The duration of the risk
2. The nature and severity of the potential harm
3. The likelihood that potential harm will occur
4. The imminence of the potential harm

Employers should also consider being flexible with workplace and leave policies. Even if an employee is not infected, for example, the employee’s family member may need caring for or the employee’s child may be dismissed from school as a precaution. Employers should identify essential job functions and roles and plan for how the business will operate in the event of increased absenteeism due to a pandemic. Both the EEOC and CDC recommend that employers implement pandemic coordinators and response planning.

Employers should also implement some best practices to prevent the spread of a pandemic in the workplace. Reminding employees about coughing and sneezing etiquette is a great start. Additionally, employers should encourage employees to wash their hands with soap and water for 20 seconds and place no-touch hand sanitizer in multiple locations to help prevent the spread of the virus. Employers should also have a plan to routinely clean frequently touched surfaces in the workplace, including work stations, countertops, sinks and doorknobs. For personal workspaces, employers should consider providing employees with disinfectant wipes and/or masks. The lawyers in Gould & Ratner’s Human Resources and Employment Practice can help employers facing issues arising from the COVID-19 virus.