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CDC Updates Guidance on Quarantine After COVID-19 Exposure, But State Guidance May Differ

Since the onset of the COVID-19 pandemic, various federal, state and local government entities have issued and updated guidance relating to the health and safety of workplaces. The Centers for Disease Control and Prevention (CDC) has led the way, with other entities relying on its guidance. On October 21, the CDC updated the definition of an exposure that should result in quarantine; on November 16, the CDC updated its guidance on the need for critical infrastructure workers to quarantine after exposure to an individual with COVID-19; and on December 2, the CDC shortened its recommended length of quarantine from the initially recommended 14 days to as little as seven days.

CDC Guidance for Individuals Exposed to a Suspected or Confirmed Case of COVID-19

The CDC previously recommended that employees who were in close contact with a known or suspected case of COVID-19 (including those with symptoms or who are asymptomatic but have tested positive) quarantine for 14 days from the date of their last exposure to that individual. The CDC defined "close contact" in this context to mean being within six feet for a cumulative 15 or more minutes during a 24-hour period, whether or not either individual was wearing personal protective equipment.

For exposed individuals who are asymptomatic, a quarantine for 14 days may be onerous, especially when such individuals are unable to work from home. As such, the CDC has issued updated guidance to reflect that such individuals, if they remain asymptomatic, may discontinue quarantine after 10 days without testing, or after seven days if a test administered within 48 hours before discontinuing quarantine is negative. Individuals who discontinue quarantine must have no clinical evidence of COVID-19, continue to monitor symptoms daily for 14 days after they are no longer quarantined, and strictly adhere to all other transmission risk reduction guidelines for the full 14 days after exposure (including correct and consistent mask use, social distancing, hand and cough hygiene, environmental cleaning and disinfection, avoiding crowds, and ensuring adequate indoor ventilation). While the CDC indicates that the shorter quarantine periods will not as effectively eliminate the risk of transmitting COVID-19, the risk of transmission is 1% to 5% in the case of the 10-day quarantine without testing, and 5% to 12% in the case of a seven-day quarantine and negative test result.

Asymptomatic Critical Infrastructure Workers Exposed to COVID-19

For most of the pandemic, despite its general recommendation that exposed employees quarantine for 14 days, the CDC allowed exposed employees in "critical infrastructure" businesses who remained asymptomatic to continue to work as long as they followed certain safety protocols. Critical infrastructure businesses include financial institutions, information technology providers, healthcare workers, food and agriculture businesses, energy providers, and critical manufacturing services, among others. This blanket exemption for critical infrastructure employees ended with the CDC's guidance issued November 16. Now, given the widespread transmission of COVID-19 by asymptomatic individuals, critical infrastructure employers may take advantage of the exemption from the 14-day quarantine only as "***a last resort and only in limited circumstances, such as when cessation of operation of a facility may cause serious harm or danger to public health or safety***." In such limited circumstances, critical infrastructure employees may continue to work if they continue to be asymptomatic, have not tested positive *and* additional precautions are observed. These additional precautions include employees pre-screening themselves before arriving at work; employers screening employees again upon their arrival at work; regularly monitoring and asking employees to self-monitor for symptoms; requiring the use of masks, social distancing and good hand hygiene; and routine cleaning and disinfecting of all work areas.

The CDC further recommends that critical infrastructure businesses, where possible, reduce the need to reintegrate exposed critical infrastructure employees into the workplace by identifying and prioritizing job functions essential for continued operations, cross-training employees on critical job functions, and determining which if any existing workers possess skills necessary to perform critical job functions should employees unexpectedly need to be absent.

BEWARE: Local Jurisdictions May Follow Different Guidance

The CDC guidance is not binding, and the guidance of state and local authorities should be followed. Some states' guidance specifically requires that employers follow CDC guidance, while others' guidance incorporates CDC guidance and/or are more restrictive than CDC guidance. For example, as of the date of publication:

- Although New York exempts from quarantine asymptomatic exposed critical infrastructure employees, a determination as to whether an individual is deemed "critical" must be made in consultation with state and local health authorities, and the close contact definition is over a cumulative 10 minutes (rather than 15) during a 24-hour period. In addition, New York had previously reduced the 14-day quarantine requirement for those engaging in certain out-of-state travel in accordance with a testing regimen, and exempts from quarantine critical infrastructure employees under certain circumstances.
- New Jersey has revised its guidance to follow the CDC's "last resort" guidance for asymptomatic exposed critical infrastructure employees and/or critical infrastructure employees who engage in certain out-of-state travel, and to reduce the quarantine period for employees who engage in certain out-of-state travel to match the CDC's new lesser seven-day and 10-day periods. However, New Jersey has communicated that it continues to recommend a 14-day quarantine period for exposed non-critical infrastructure employees for maximum protection.
- Pennsylvania continues to recommend a 14-day quarantine period for all exposed employees for maximum protection, unless such quarantine is an "undue burden," in which case the CDC's new lesser seven-day or 10-day quarantine period will apply. Pennsylvania also allows quarantine to end after certain out-of-state travel upon a negative test.
- Rhode Island requires businesses to justify on a case-by-case basis why a particular critical infrastructure employee exposed to COVID-19 is unable to quarantine for 14 days. Exposed health care employees, however, may return from quarantine earlier than 14 days in accordance with a testing regimen.

The legal landscape related to COVID-19 has changed rapidly and will likely continue to do so given the current resurgence throughout the country and world. As always, employers should confer with legal counsel to ensure they comply with the applicable obligations in their jurisdiction.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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