

# Workplace Guide to COVID-19: Solutions to Employment and Benefits Challenges

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# Speakers

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# Agenda

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- 1 | Quarantines, Absences and Telecommuting**
- 2 | Health Information and Privacy**
- 3 | Employee Benefits**
- 4 | Government Assistance**

# Questions?

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Email your questions and comments during  
the presentation to:

**AMcManus@cov.com**

# Quarantines, Absences and Telecommuting

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# Ensuring Workplace Safety

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- **Understand OSHA** safety requirements
- Review applicable OSHA (and state OSHA) and CDC **guidance**
- **Actively encourage sick employees to stay home**
- **Educate** employees about proper hygiene and how to recognize COVID-19 symptoms

# Leave and Telecommuting Policies

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## **Implement and communicate consistent policies.**

- Paid or unpaid leave policy, including any extension of sick leave or vacation time
- Whether employee must obtain medical documentation to return to work
- Telecommuting policy
- Leave-sharing policies, if applicable

# Do I Need to Pay My Employees on Leave?

## Non-exempt

You do not have to pay a non-exempt employee for time the employee does not work.

**Don't Forget**  
**state and local paid sick leave laws**

Your jurisdiction may require you to provide paid sick leave for applicable reasons.

## Exempt

Voluntary Leave

If an exempt employee misses a full day of work for personal reasons you may deduct a full day of pay.

Mandatory Leave

You must pay the full salary if the employee performs any work in the week.



# Can Employees Be Required to Report to Work?

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- Generally yes
- Workers' compensation liability is unlikely
- *But* consider that the coronavirus is fast-moving and health guidance may lag behind
- Employers might risk breaching local health and safety rules (e.g., OSHA)
- Prepare for a shelter in place order



# Special Considerations Across Jurisdictions

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- **Wage and sick leave laws**
- **Unemployment insurance**
- **WARN Acts**
- **Employment anti-discrimination laws**

# Health Information and Privacy

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# Health Information and Privacy

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The guy down the hall is coughing. I suspect that he has the coronavirus. Now what?

What information can I require employees to disclose?

Under what circumstances?

Can I take employees' temperatures or conduct other on-site health checks?

Can I make them go get tested?

Are we subject to HIPAA obligations or restrictions?

# Employee Benefits

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# Solutions to Benefit Challenges

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- **Access to Benefits While Employees Are on Leave**
  - Health Coverage
  - Short-Term Disability Coverage
- **Health Plan Coverage of COVID-19 Tests and Treatment**
- **Long-Term Disability and Life Insurance**



# Solutions to Benefit Challenges

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## ■ **Some Additional Observations**

- 401(k) Investments, Hardship Withdrawals, and Loans
- Pension Funding
- Continuation of Plan Operations
- “Conduct of Business” Clauses in M&A Transactions
- Workers Other than Common-Law Employees



# Fringe Benefit Issues

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## **Dependent care assistance**

Dependent FSA election changes

Emergency backup childcare

## **Commuting considerations**

## **Meals**

## **Disaster relief payments**



# Government Assistance

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# Federal Action

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- **Trump's Payroll Tax Proposal**
- **House Bill**
  - Emergency family and medical leave
  - Emergency paid sick leave
- **Leave Donation**

# Questions or Comments?

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