OSHA Adds More COVID-19 FAQs

Agency and CDC guidances are now gathered in one place on the website.

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JUL 14, 2020

The Occupational Safety and Health Administration (OSHA) has issued new Frequently Asked Questions (FAQs) concerning employer duties in regard to COVID-19 which it added to previously published advice gathered together in a single spot on the agency’s website.

“Though the FAQs do not impose any new legal requirements, employers should be aware of OSHA’s recommendations as workplaces around the country
continue to reopen to workers, customers and other visitors,” say attorneys Harris Mufson, Alexandra Rueckle Reynolds and Heylee Bernstein of the Proskauer Rose law firm.

The agency has been issuing guidances and clarifications of its rules throughout the course of the pandemic, most recently in regard to how employers are required to record cases of the Coronavirus that arise among members of their workforce.

OSHA also recently organized all of its FAQ documents dealing with employer recommendations from the agency, along with related information generated by the Centers for Disease Control and Prevention (CDC), into a single FAQ website for easier access.

Mufson, Reynolds and Bernstein selected several notable FAQs to highlight what they say represent new and additional information important enough to make sure employers know about it.

**Cloth Face Coverings**

OSHA recommends that employers encourage workers to wear face coverings while at work and maintains that employers must ensure social distancing in the workplace, even when workers wear cloth facemasks. This recommendation is consistent with the CDC’s recommendation that all people wear cloth face coverings in public and around others, the attorneys note.
OSHA clarifies that employers have discretion to allow employees to wear cloth face coverings “based on the specific circumstances present at the work site.” For example, if chemicals are highly present in a workplace, cloth face coverings can become contaminated with the chemicals and pose a danger to employees.

If such a case arises, employers might determine that cloth face coverings are actually a hazard to workers. Employers can then provide personal protective equipment (PPE) instead of encouraging cloth face coverings.

OSHA also says that employers should evaluate their “accessible communication policies and procedures,” such as considering providing masks with clear windows to facilitate communication between workers and members of the public who rely on lip-reading.

**Testing Positive**

OSHA says workers are expected to inform their employers if they have tested positive for COVID-19. When employers are notified that one of their workers tested positive, they should follow applicable CDC recommendations regarding community-related exposure, eventual return to work, and cleaning and disinfecting.

OSHA does not require employers to notify other employees if one of their workers tests positive. “Still, employers must take appropriate steps to protect other workers from exposure, which may include notifying other workers to monitor themselves for symptoms, screening
workers, and cleaning and disinfecting," the attorneys point out.

On the other hand, the OSHA FAQs admit that the CDC recommends employers determine which employees may have been exposed and inform employees of such possible exposure.

OSHA has long held that employers should keep in mind that they may not disclose confidential medical information under the Americans with Disabilities Act, and applicable federal, state and local laws.

**Construction and Healthcare**

The FAQs also contain sections devoted to employers in the construction and healthcare industries. OSHA directs construction industry employers to its industry-specific guidance, and stresses the point that OSHA’s requirements for respiratory protection in construction that were in place prior to COVID-19 also remain in effect and have not changed.

OSHA also directs healthcare industry employers to its previously issued guidance as well as to the CDC guidance. OSHA’s healthcare industry guidance also applies to healthcare provided outside of hospitals, including home healthcare, physical therapy, occupational therapy and chiropractic care.

**Worker Protection Concerns**
Workers who are concerned their employers are not appropriately protecting them from exposure in the workplace are encouraged to speak with their employer. The FAQs remind workers that they have the right to file OSHA complaints in certain circumstances. These include situations where employees may believe they have been retaliated against for voicing concerns about a good faith belief pertaining to a health or safety hazard.

OSHA’s FAQs also remind employers of their responsibility to conduct a hazard assessment regarding exposure to hazardous chemicals used for cleaning and disinfecting workspaces and equipment. Based on the results, employers may need to provide PPE and implement a hazard communication program, in compliance with OSHA’s Hazard Communication Standard.

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