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COVID-19, OSHA, and the In Home Service Provider

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Agenda

1. OSHA Background
2. COVID-19 Regulations from OSHA
3. COVID-19 Guidance from OSHA
4. Inspections and Enforcement
5. Recording COVID-19 Infections

OSHA

- Agency within the U.S. Dept of Labor
- Affects businesses with employees
- Creates law surrounding workplace safety and health
- Drafts guidance to help employers comply with OSHA law
- Inspects workplaces
- Issues citations for violations
- Oversees 28 states



**22 States, Puerto Rico, and the U.S. Virgin Islands
choose to run their own
workplace safety and health department.**

Federal OSHA: Wisconsin, Illinois, Kansas

State Plans: Minnesota, Iowa, Michigan

COVID-19 Regulations

No specific COVID-19 law from OSHA

Existing Regulations that Apply to COVID-19

- **General Duty Clause** – employers must provide a workplace free from recognized hazards that cause or are likely to cause death or serious physical harm to employees.
Example: you allow an employee with a positive COVID-19 diagnosis to work near others.
- **Sanitation** – cleanliness, waste disposal, water supply, toilet facilities, washing facilities
Example: you do not provide hand soap which prevents employees from frequently washing their hands for 20 seconds.
- **Personal Protective Equipment (PPE)** – employers must provide PPE when necessary to minimize exposure to hazards, ensure its proper use, and train employees.
Example: you send an employee to fix a hospital's lab sink and do not supply gloves.

COVID-19 Regulations

No specific COVID-19 law from OSHA

Existing Regulations that Apply to COVID-19 Workplace Programs

- **Respiratory Protection** – must supply employees a proper respirator to protect them from insufficient oxygen environments, harmful dusts, fogs, smokes, mists, gases, vapors, and sprays. Must ensure proper fit and training.
Example: You send an employee to fix a hospital lab sink with a loose fitting mask.
- **Injury and Illness Recordkeeping** – employers with more than 10 employees must record employee COVID-19 infections on their OSHA 300 forms.
Example: you know an employee contracted COVID-19 on the job and do not record it on your OSHA log.
- **No Retaliation** - cannot fire or in any way punish an employee because they reported a safety concern or refused to work under conditions they have a good faith, reasonable belief will kill or seriously harm them or another person.
Example: an employee refused to fix a nursing home's sink because his wife developed a cough and shortness of breath last week, so you fired him.

COVID-19 Guidance for In Home Service Workers

In depth webinar on Thursday, May 7

Low Exposure Risk

Do not require contact with people known to be, or suspected of being, infected with COVID-19, nor frequently within 6 feet of the general public. Workers in this category have minimal occupational contact with the public and other coworkers.

Medium Exposure Risk

Frequently within 6 feet of people who are not known to be infected with COVID-19. May have frequent contact with travelers returning from international locations with widespread COVID-19 transmission. Workers in this category include those who have contact with the general public (*e.g.* schools, high-population-density areas, airports, and high-volume retail settings)

High Exposure Risk

Settings occupied by people suspected or known to be COVID-19 positive or performing work on items that hold the blood or body fluids of these individuals (*e.g.* sinks, toilets).

COVID-19 Guidance for In Home Service Workers

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1. Determine employee risk level
During scheduling calls, ask customers
 - work urgent or can it be postponed
 - occupants experiencing symptoms
 - building occupied
 - good air flow
 - occupants agree to maintain a 6 foot distance with employee
2. Use controls associated with the risk level
 - close doors or hang plastic sheeting when working in occupied homes
 - provide PPE and sanitizing material
3. Train employees
 - wear and maintain PPE
 - recognize COVID-19 symptoms,
 - stay home when ill
 - good hygiene
 - leave the job if the occupants do not maintain social distancing
4. Minimize paperwork and offer electronic payment options

Inspections and Enforcement

Typically, OSHA investigates randomly, after someone files a complaint, another agency makes a referral, or after a workplace fatality or employee hospitalization.

Priorities in COVID-19 era → healthcare and first responder workplaces, deaths, and immediate dangers.

Low Exposure Risk = Low Priority for OSHA | High Exposure Risk = High Priority

No OSHA on-site inspections during pandemic for Low and Medium Risk

Phone calls, emails, faxes, postal letters, video surveillance, video conference

Inspections and Enforcement

Good Faith Effort

OSHA gives inspectors the option not to issue citations if required training, audits, inspections, testing, or other services are not done because

1. COVID-19 caused the unavailability of required employees, consultants or contractors (e.g. respirator trainer can't travel to your shop),
2. Employer thoroughly explored all options (e.g. virtual training),
3. Employer implemented engineering or administrative controls where possible (e.g. new employees won't do jobs that require a respirator)
4. Employer took steps to reschedule the activity as soon as possible, and
5. Employer provides documentation to support the above.

Recording COVID-19 Infections

General Recordkeeping and Reporting Rules

WHO: Businesses with more than 10 employees

WHAT: Must record all **work-related** incidences involving employee death, loss of consciousness, days away from work, restricted work or job transfer, or medical treatment beyond first aid.

ON WHAT: OSHA 300, 300A, and 301

WHEN: within 7 days of discovering the incident

must sign and post 300A from February 1 – April 30

must keep forms for 5 years

WHO: Certain businesses with 20+ employees (e.g. services to buildings and dwellings, building material and supply dealers, general merchandise stores)

WHAT: Must submit the 300A form via OSHA's website by March 2 every year.

Recording COVID-19 Infections

Difficult to determine whether an employee's COVID-19 infection is [work-related](#).

Do not need to record a COVID-19 positive employee on the OSHA form unless:

1. Objective evidence that the infection is work-related

Many cases among workers who work closely together without an alternative explanation (e.g. pork plants), and

2. Objective evidence is reasonably available to the employer

No special investigation necessary. What you learn from employees and through ordinary course of business.

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Questions

U.S. OSHA (Wisconsin, Illinois, Kansas)

www.osha.gov

Minnesota OSHA

www.dli.mn.gov/business/safety-and-health-work

Iowa OSHA

www.iowaosha.gov

Michigan OSHA

www.Michigan.gov/miosha