

**CLIENT ALERT: COVID-19 Testing, Quarantine, and Return to Work Guidance
July 31, 2020**

We recognize that determining when an employee should return to work after infection, exposure or symptoms is a challenging issue for employers, especially as Coronavirus surges in other parts of the country. Previously, the CDC focused on an individual's test results to determine if it was safe for them to return to work – if they tested negative twice within a short period of time, regardless of symptoms, they could return. Now, public health officials recognize that individuals may test negative for COVID-19 but continue to spread the virus. Therefore, on July 20, the CDC significantly altered their return to work guidance, moving from a test-based strategy to a symptom-based strategy.

Below we outline the CDC's most recent return to work guidance, as well as Maine's guidance on testing and travel restrictions. One thing is for sure; there is constant change during this Pandemic.

According to CDC guidance, when can an employee who tests positive for COVID-19 return to work?

If the employee tested positive for COVID-19 but is asymptomatic, they may return to work once at least 10 days have passed since their positive COVID-19 test.

If the employee tested positive for COVID-19 and is exhibiting symptoms, they may return to work once: 1) at least 10 days have passed since their symptoms first appeared, 2) at least 24 hours have passed with no fever and without fever-reducing medication, and 3) other symptoms have improved.

According to CDC guidance, when can an employee who has symptoms of COVID-19 return to work?

Employees exhibiting symptoms of COVID-19 (but who have not been tested) can return to work once: 1) at least 10 days have passed since their symptoms first appeared, 2) at least 24 hours have passed with no fever and without fever-reducing medication, and 3) other symptoms have improved.

According to CDC guidance, when can an employee who has been exposed to COVID-19 return to work?

Individuals who have been exposed to COVID-19 may return to work when at least 14 days have passed since their last exposure. In cases where an individual is living with someone

who has COVID-19 and cannot avoid close contact, the CDC recommends the individual begin their 14 day quarantine once the household member is no longer sick and is cleared to end their home isolation. Therefore, an individual living with someone who has COVID-19 may end up quarantining for more than 14 days – for the duration of the household member’s illness *plus* an additional 14 days.

What does “exposure” mean?

The CDC defines “exposure” as coming into close contact (less than six feet for 15 minutes or more) with 1) a person with COVID-19 who has symptoms, or within the last 48 hours before they got symptoms, or 2) a person who has tested positive for COVID-19 but has not had any symptoms. If the employee has been exposed to a person who has COVID-19 but is asymptomatic, the period of their exposure is for 48 hours before the non-symptomatic person’s test specimen was collected until the non-symptomatic person meets the criteria for ending their home isolation. Exposure is irrespective of whether either individual wore a cloth face covering or PPE.

Examples of close contact may include living or caring for someone with COVID-19, coming into direct physical contact (touching or hugging), sharing eating or drinking utensils, or coming into contact with the individual’s respiratory droplets as a result of sneezing or coughing.

Are there any special considerations for high risk employees?

Yes. The CDC advises that for severely immunocompromised individuals, a test-based strategy may be appropriate, so long as it is done in consultation with infectious disease experts. The test-based strategy requires an individual to obtain two consecutive negative test results from two respiratory specimens collected less than 24 hours apart. All test results should be finalized before the individual ends their home isolation. We recommend you tread carefully in these situations and consult with medical experts and legal counsel.

Additionally, the CDC states that for individuals who have suffered severe illness from a COVID-19 infection, quarantine for up to 20 days after symptoms first appeared may be warranted.

What does the Maine CDC recommend for return to work protocol?

On July 21, the Maine CDC updated their guidance to be consistent with CDC guidance, as outlined above.

What are the current travel, quarantine, and testing restrictions issued by the State of Maine?

Under the Keep Maine Healthy Plan released on June 9, individuals traveling into Maine must 1) receive a negative test result 72 hours before or after entering Maine, or 2) quarantine for 14 days upon arrival. Residents of New Hampshire, Vermont, New York, New Jersey, and

Connecticut, as well as Maine residents traveling to and from those states, are exempt from these requirements. Maine residents traveling to other states must either receive a negative test result within 72 hours of returning home or quarantine for 14-days. Residents and visitors who are tested upon entering Maine must quarantine while awaiting their test results. Antibody tests are not acceptable to forgo quarantine.

Essential workers traveling to Maine to perform work, or traveling out-of-state for work and returning to Maine, are also exempt from the testing/quarantine restrictions. However, the Maine CDC requires essential workers who have not received a negative test result upon returning to Maine to quarantine for 14 days when not at work.

Individuals traveling out of state for medical appointments are not required to quarantine upon returning to Maine, so long as they go directly to the medical appointment and back home.

If we learn that one of our employees has tested positive, should we notify the Maine CDC?

Only health care providers, medical laboratories, health care facilities, administrators, health officers, and veterinarians are required to report diseases to the Maine CDC. When an individual tests positive for COVID-19, the testing laboratory and health care provider are required to report the results, not the employer of that individual. The Maine CDC states that upon learning of a positive case, one of their investigators will contact the individual's employer.

If an employee gets, has symptoms of, or is exposed to COVID-19, may we require proof of a negative test before they return to work?

Yes, according to guidance from the EEOC, it's ok to require proof of a negative test from an employee before they return to work. It's also ok to require a note from the employee's health care provider clearing them to return to work. Given the intricacies of the most recent CDC guidance, timing of COVID-19 testing is a significant issue. Even if you require a negative test result, we suggest complying with the CDC symptom-based strategy before permitting an employee to return to work.

If we have learned anything over the past five months, it is that federal, state, and local guidance is subject to significant change. Employers operating in multiple states or localities should ensure their policies and procedures remain compliant with all applicable guidance. Now, more than ever, is a good time to be flexible and emphasize communication with employees.

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