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BLOGS

COVID-19; Workplace Safety

OSHA Updates Guidance on Reporting Work-Related Cases of the Coronavirus

The federal Occupational Safety and Health Administration (OSHA) recently published additional frequently asked questions and answers (FAQs) regarding the need to report employees in-patient hospitalizations and fatalities resulting from work-related cases of the coronavirus. These FAQs reverse OSHA's previously issued guidance that, for cases of COVID-19, the work-related incident triggering reporting requirements was the employee's positive diagnosis. Now, the triggering event is the employee's exposure to the coronavirus at work.

Employers are required under existing OSHA regulations to report in-patient hospitalizations to OSHA if the hospitalization occurs within twenty-four (24) hours of the work-related incident. See 29 CFR 1904.39(b)(6). OSHA's updated FAQs provide guidance on the meaning of the term incident as it relates to work-related COVID-19 in-patient hospitalizations and fatalities, as well as recording and reporting requirements.

An employer must report an employee hospitalization due to COVID-19 if the employee is admitted to the hospital for in-patient treatment within 24 hours of an exposure to the virus at work. The report of such hospitalization is due within 24 hours of the employer knowing both, that the employee has been in-patient hospitalized and that the reason for the hospitalization was a work-related case of COVID-19.

An employer must report a work-related fatality resulting from COVID-19 if the employee dies within 30 days of exposure to the virus at work. This report of fatality is due within eight hours of the employer knowing both that the employee has died, and that the cause of death was a work-related case of COVID-19.

The pertinent updated information from the FAQs, as published by OSHA, is as follows:

Q. How do I report the fatality or in-patient hospitalization of an employee with a confirmed, work-related case of COVID-19?

A: You may report a fatality or in-patient hospitalization using any one of the following:

- Call the nearest OSHA office;
- Call the OSHA 24-hour hotline at 1-800-321-OSHA (6742); or
- By electronic submission, report online.

Be prepared to supply: Business name; name(s) of employee(s) affected; location and time of the incident; brief description of the incident; and contact person and phone number so that OSHA may follow-up with you (unless you wish to make the report anonymously).



Q: An employee has been hospitalized with a work-related, confirmed case of COVID-19. Do I need to report this in-patient hospitalization to OSHA?

A: Under 29 CFR 1904.39(b)(6), employers are only required to report in-patient hospitalizations to OSHA if the hospitalization “occurs within twenty-four (24) hours of the work-related incident.” For cases of COVID-19, the term “incident” means an exposure to SARS-CoV-2 in the workplace. Therefore, in order to be reportable, an in-patient hospitalization due to COVID-19 must occur within 24 hours of an exposure to SARS-CoV-2 at work. The employer must report such hospitalization within 24 hours of knowing both that the employee has been in-patient hospitalized and that the reason for the hospitalization was a work-related case of COVID-19. Thus, if an employer learns that an employee was in-patient hospitalized within 24 hours of a work-related incident, and determines afterward that the cause of the in-patient hospitalization was a work-related case of COVID-19, the case must be reported within 24 hours of that determination. See 29 CFR 1904.39(a)(2), (b)(7)-(b)(8).

Employers should note that 29 CFR 1904.39(b)(6)’s limitation only applies to reporting; employers who are required to keep OSHA injury and illness records must still record work-related confirmed cases of COVID-19, as required by 29 CFR 1904.4(a).

Q. An employee has died of a work-related, confirmed case of COVID-19. Do I need to report this fatality to OSHA?

A: Under 29 CFR 1904.39(b)(6), an employer must “report a fatality to OSHA if the fatality occurs within thirty (30) days of the work-related incident.” For cases of COVID-19, the term “incident” means an exposure to SARS-CoV-2 in the workplace. Therefore, in order to be reportable, a fatality due to COVID-19 must occur within 30 days of an exposure to SARS-CoV-2 at work. The employer must report the fatality within eight hours of knowing both that the employee has died, and that the cause of death was a work-related case of COVID-19. Thus, if an employer learns that an employee died within 30 days of a work-related incident, and determines afterward that the cause of the death was a work-related case of COVID-19, the case must be reported within eight hours of that determination.

Employers should also be aware that there are [28 OSHA approved State Plans](#) operating state-wide occupational safety and health programs. State Plans are required to have standards and enforcement programs that are at least as effective as OSHAs requirements and may have different or more stringent requirements. Employers should therefore also consult their states requirements for reporting cases of COVID-19.