# RETURNING EMPLOYEES TO WORK AFTER COVID-19

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# THE BASICS

- Plan and prepare

- Implement written policies

- Communicate

- Monitor

- Adapt

# CRITICAL PLANNING QUESTION #1

When do we start bringing employees back into the workplace?

# RETURN TO THE WORKPLACE – FACTORS TO CONSIDER

- State and local law and guidance

- Capacity of some or all employees to telework

- Physical limitations of the workplace

- Availability of employees

- Options for phased return

- OSHA Guidance 3990

# CRITICAL PLANNING QUESTION #2

What modifications can be made to the physical structure and maintenance of the workplace to prevent the spread of COVID-19?

# STRUCTURE AND MAINTENANCE – FACTORS TO CONSIDER

- De-densifying to facilitate social distancing

- Cleaning practice

- Creating employee zones

- One way hallways

- Limiting or closing off communal spaces (kitchens, conference rooms, etc.)

- Ingress and egress (doors, elevators, etc.)

# CRITICAL PLANNING QUESTION # 3

What type of PPE or other special equipment/products will be required or utilized to prevent the spread of COVID-19?

# PPE/EQUIPMENT – FACTORS TO CONSIDER

- Masks or face covering (type? required?)

- Gloves (required?)

- Hand sanitizer, wipes and other cleaning supplies (availability?)

- Who will be responsible for providing?

- What about customers, vendors or other visitors?

# CRITICAL PLANNING QUESTION #4

What other modifications can be made to the way we conduct business to prevent the spread of COVID-19?

# OTHER MODIFICATIONS– FACTORS TO CONSIDER

- Employee shifts and overlap

- Greetings

- Site visits and travel

- Customers, vendors and visitors to the workplace

# CRITICAL PLANNING QUESTION #5

How will we identify and address potential risk areas?

# IDENTIFYING RISK - FACTORS TO CONSIDER

- Employee self-checks

- Employee testing

- Employee self-reporting requirements

- Visitor screening

# CRITICAL PLANNING QUESTION #6

How will we respond if an employee tests positive for COVID-19, is exhibiting symptoms of COVID-19 or has been exposed to COVID-19?

# RETURN TO THE WORKPLACE – FACTORS TO CONSIDER

- Quarantine

- Leave

- Notice to other employees/ contact tracing

- HIPAA privacy issues

- Return to work certifications

# CRITICAL PLANNING QUESTION #7

How will we implement and enforce any new measures?

# ENFORCEMENT– FACTORS TO CONSIDER

- Pre-return communications

- Updating written policies

- Manager/supervisor oversight

- Employee reporting system

- Notice of consequences

# HANDLING EMPLOYEES WHO DON'T WANT TO RETURN TO WORK

- Identify the reason

- Assess any accommodation obligations or leave rights

- Communicate with the employee

# REASONS WHY EMPLOYEES MAY NOT WANT TO RETURN

- Employee is at high risk for severe COVID-19

- Employee lives with someone who is high risk

- Employee is making more on unemployment than employee would working

- Employee is caring for child(ren)

- Employee is not high risk but is scared about catching COVID-19

- Employee's job duties and/or compensation has changed

# REASONABLE ACCOMMODATION IN THE AGE OF COVID-19

- Under the ADA (and state/local equivalents), an employer must provide a reasonable accommodation to an employee with a disability unless doing so would pose an undue hardship on the employer

- A reasonable accommodation may include allowing the employee to telecommute, work on a reduced schedule or take leave

- Mental health issues may qualify as a covered disability

# LEAVE IN THE AGE OF COVID-19

- FMLA (50 or more employees)

- FFCRA Emergency FMLA (any size)

- FFCRA Paid Sick Leave

- State or Local Paid Sick Leave

# COMPENSATION AND BENEFITS ISSUES

Businesses bringing employees back to work should assess:

- Exempt v. non-exempt classifications

- Wage and hour issues

- Benefits eligibility

- Contractual obligations

# OTHER TRICKY ISSUES TO CONSIDER AND PLAN FOR

- Employees who typically take mass transit to work

- Impact of business decisions (such as terminations) on PPP loan forgiveness eligibility

- Business liability

- Discrimination claims

- Image and reputation

# QUESTIONS?

# Thank you for joining us!